

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS PANEL

SECRETARY OF STATE
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 30, 2002

10:00 A.M.

Reported by: Michael Mac Iver

Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. Bob Jennings, Chairperson

Mr. Chon Gutierrez

Mr. John Mott-Smith

Mr. Chris Reynolds

Mr. Bernard Soriano

Mr. Steve Trout

STAFF

Ms. Dawn Mehlhaff

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PROCEEDINGS

CHAIRPERSON JENNINGS: Good morning, Ladies and Gentlemen, and welcome to the October 30th meeting of the Voting Systems and Procedures Panel.

I'm Bob Jennings and I'm the Under-Secretary of State, and also the Chairman of this panel.

I'd like to introduce the members of the panel. On my far left, Chris Reynolds, who is the Assistant Secretary for Legislative and Constituent Affairs. To my immediate left, John Mott-Smith, who is Chief of the Elections Division. On my immediate right, John Gutierrez, who is the Assistant Secretary for Operations. Next to him, Bernard Soriano, who is the Chief of our Information and Technology Division. And on my far right, Steve Trout, who is a Senior Counsel with the Elections Division.

I'd also like to introduce Dawn Mehlhaff, who is an Elections Specialist, and has been appointed as the Director of Voting Programs and who will be serving as the primary staff for this panel.

The other person I would like to introduce is Michael Mac Iver, who is here from Peters Shorthand. Michael is taking the notes for this meeting. As per normal, we would request that anybody who speaks from the audience, that they first introduce themselves before they begin their comments so that Michael can properly record

1 your name and position.

2 And before I move further with this meeting, I'd
3 like to make a brief statement about the media speculation
4 over the weekend regarding Lou Dedier, a former Voting
5 Systems analyst and advisor to the Voting Systems Panel.

6 Mr. Dedier recently left state service to work for
7 a voting system vendor. As you all know, the Voting Systems
8 Panel, as it functions now, was set up by Secretary of State
9 Bill Jones to be a transparent, impartial, efficient, and
10 multi-layered process for certifying voting systems to be
11 used in California. Without question, we have the most open
12 and rigorous testing and certification process in the entire
13 country, and I want to assure everyone that this process is
14 going to continue without interruption.

15 Secretary of State Jones is concerned about the
16 circumstances of Mr. Dedier's leaving state service. This
17 is a factual matter that may involve the Political Reform
18 Act, and for that reason, Secretary Jones directed me to
19 request an inquiry by the agency that enforces the Political
20 Reform Act, the Fair Political Practices Commission. A
21 request for an inquiry into those circumstances of Mr.
22 Dedier's change in employment was made to the FPPC on this
23 Monday. And for that reason, the members of the panel will
24 not make any comments nor answer any questions regarding Mr.
25 Dedier during the period of the inquiry.

1 So with that, I would like to direct your
2 attention to the agenda this morning, and I would like to
3 make a couple of changes. One, we will consider old
4 business first, consideration of the Ink A Vote Optical Scan
5 System second, and rather than the demonstrations
6 interrupting with the process of this meeting, we will place
7 them last on the agenda. There are three different
8 demonstrations and we will go immediately after the Ink A
9 Vote discussion and action to the open discussion and
10 reports from each of the vendors regarding the Florida
11 situation. There are three vendors who may elect to give
12 verbal testimony today, ES&S, Sequoia, and Diebold.

13 So with that, I would like to then begin with a
14 staff report and analysis from Dawn Mehlhaff who is prepared
15 to give us our report now. Thank you.

16 MS. MEHLHAFF: Good morning, Gentlemen. Before
17 you today you have the Ink A Vote System, which is Los
18 Angeles County's proposed system to basically be a bridge.

19 Can you not hear me in the back? Is that better?
20 Is it on? Can you hear me in the back? Okay. I just
21 needed to be closer.

22 So, as I said, you have the Ink A Vote system in
23 front of you. It's Los Angeles County's proposed system.
24 They're proposing it as a bridge to get them from the
25 decertification of punch cards to where they can get to

1 basically a DRE system. So before you is the system. There
2 are examples in front of you, if you choose to use them. It
3 has gone through testing with our consultant, with Bob
4 Nagaly. He has tested it. We have found -- actually, he
5 and I both tested it together. We found that it was
6 reliable. It recorded the results accurately. The card
7 reader, which has already been certified, read them
8 appropriately, and we did not see any issue as far as
9 nonreading with the card reader or with absentees.

10 The county has agreed, and this is really
11 critical, they have agreed to review every ballot as it
12 comes back from the polling place and as it comes back from
13 an absentee voter, to view it visually, to make sure that
14 all the appropriate marks are made correctly on the ballot.
15 So that if someone used a red colored pen or a yellow
16 colored pen, the card reader cannot read those. And so they
17 have agreed to go through and look at all of the ballots to
18 make sure that all the marks are made in the correct colored
19 ink, that the circles are filled in completely, so basically
20 that there's an accurate ballot for every voter. They will
21 recreate or mark over those questionable marks. So if you
22 have in some cases where you have voters who just do a half
23 circle or don't completely fill in the bubble, they will go
24 over with a contrasting colored ink so it's visible what the
25 voter's intent was and what they went over and did. In some

1 cases they will have to recreate the ballots just as they do
2 now under their current procedures.

3 So there are a couple components to their system.
4 It's the microcomputer tally system, which is the MTS, which
5 is currently being used in Los Angeles County. It is
6 certified, it did not undergo any additional testing as part
7 of this procedure.

8 The card reader has also been tested. It's their
9 current system. It would just need a new basically reader
10 head replaced that reads optical scan versus punch card.
11 And then the Ink A Vote device and then the standing
12 ballots, which are essentially the same as what they are
13 using now, except they're not prescored. So from the
14 voter's perspective, they will get this card, it will look
15 the same as to what they're used to voting on in Los Angeles
16 County. The only difference obvious will be it's not
17 prescored, so the voter can't punch through it, they will
18 need to mark it with a pen. And the pen that they have
19 proposed to use in their polling places are in front of you.
20 We tested it with ballpoint pens, black, blue ink. We even
21 tested it with green highlighters. So we used a variety of
22 different colors and inks to mark the ballots, and all of
23 those read through the card reader. The only things that
24 don't read are the red and yellow, and that's intentional
25 because of the printing on the ballot.

1 CHAIRPERSON JENNINGS: Thank you. Are there any
2 questions or comments from members of the panel?

3 Go ahead, Mr. Reynolds.

4 PANEL MEMBER REYNOLDS: In the staff report
5 there's a mention made of the fact that the system looks a
6 lot like the current system that is being used, and there
7 are advantages to that no question. But to the extent that
8 someone gets confused by the similarity of the system and
9 tries to punch the card, particularly if they have an
10 absentee ballot, what steps are being taken to try to make
11 sure that they understand that this is a marked ballot
12 instead of a punch ballot, and what do they do, are there
13 procedures in place to fix a ballot that's been punched, as
14 opposed to marked?

15 MS. MEHLHAFF: The answer to your question is yes
16 on both aspects. One, the county has agreed on the absentee
17 ballots, and this was one of the things that I, along with
18 our consultant, suggested to them while we were testing, was
19 that the absentee ballot is going to look exactly the same
20 as what you use in the card reader. And we had concern
21 about that in the sense that there's no directions on this
22 card. So the county agreed that they will, and they
23 consulted with their ballot card printer, they will print
24 instructions on the card. They will print an example of how
25 you complete the circle basically, and what colors of ink to

1 use. So they are going to print that on here along with the
2 instructions in the sample, the sample ballot. But, as you
3 know, all voters might not read that, so they are going to
4 do it directly on the card. So that's one step, as far as
5 informing the voter how to mark the ballot.

6 The second step is in the procedures, I believe
7 it's page 34 that you have, as well as in the count
8 guidelines that are also in your binder, they have clearly
9 addressed that, the fact that they will go through card by
10 card. If it's punched, they will replace it. They will
11 duplicate the card. And then their count guidelines
12 indicate what they consider is a valid vote, so that they
13 can duplicate the ballot. So they have addressed both those
14 issues.

15 PANEL MEMBER REYNOLDS: And correlated to that,
16 the card-by-card review sounds like a good idea. But is
17 there any sense of how much that's going to add to the time
18 that it will take to develop the results?

19 MS. MEHLHAFF: It's my understanding and --

20 MS. MCCORMICK: Do you want me to address it from
21 the audience? Okay. I'll speak as loud as I can.

22 I'm Connie McCormick, Registrar Recorder County
23 Clerk from Los Angeles County.

24 Currently in absentee voting, and we've done up to
25 more than 500,000 absentee ballots, every single ballot when

1 it comes back it opened manually by hand and individually
2 removed from the ballot envelope. And that's the case for
3 all absentee ballots, inspected right then and there for
4 both to see whether or not there's a write-in, because the
5 ballot could potentially have a write-in, as well as a
6 marking or a hanging chad in the current case, or in this
7 case if it was marked with a pen that was inappropriate.

8 We even modified the procedures on Friday and the
9 new ones reflect that when Dawn and Bob Nagaly were in our
10 office, that any one of the circles that isn't completely
11 filled, we're not going to take the chance if it's partially
12 filled that it might count. We're going to remake that or
13 we're going to use the highlighter that you can see the
14 original mark through it. Really that doesn't change what
15 we do too much now.

16 We have about a hundred people in our office that
17 are right now doing this as the election is going on. So
18 the absentee procedure, which is really probably the most
19 concerned -- I did like Dawn's idea of printing on the
20 ballot card an optical scan big ballot tab the actual
21 showing people how to mark and darken right on the card.

22 Right now, in addition to the sample ballot we
23 mail to the voter, we also have an instruction sheet, and I
24 didn't bring one, I wish I had, that explains on an
25 instruction sheet. But let's say they don't look at that,

1 because most people don't, so I think right on the card
2 which is a large ballot you have the same thing. And we
3 anticipate we'll have some people punching holes in them.
4 We anticipate that. And indeed in Long Beach, they had a
5 similar type of election on an Optimark similar ballot in
6 April of this year, I believe. There were, I believe, a few
7 absentees that came back with some holes in them. We would
8 remark or remake those. They would have to be remade. So I
9 don't think absentee is going to be the issue.

10 I think it's going to be more difficult for the
11 election night. Precinct ballots, we currently have about
12 300 people, students, we bring in students and their
13 teachers, because they volunteer, who inspect the ballots.
14 I think we will probably have to go to about 600 students.
15 Well, we have a lot of high schools and we do have the space
16 to do that, and we will just have to enhance our ballot
17 inspection procedures. I mean we're prepared to do that.
18 We think it's crucial, actually, to do that.

19 And what I would like to suggest is that our first
20 election on this system is November of '03. That's our goal
21 is to go with our off year first to try the system to make
22 sure it's going to work before we put it out in the
23 presidential, that we invite members of the Secretary of
24 State's office to come down and watch us do that very thing
25 at that November election, that we're looking at every

1 ballot, that we're clearly following the procedures that
2 were set in place to reassure people, and to reassure
3 ourselves.

4 Any time you change voting systems, I don't care
5 if it's a modification as this is or a major change, there
6 are bound to be some things you don't anticipate that are
7 going to happen. And the last thing that I want to do is
8 preside over an election that is inaccurately tabulated.
9 I'm not looking to go there. So I think we will go
10 overboard on everything that we can do to make sure that
11 people mark it correctly and that it's tabulated correctly.

12 Because if there's a recount, and there always is
13 in LA County, we've never gotten through an election without
14 a recount. Some people have never had one, we've never had
15 an election we don't have one. So we will have a recount,
16 I'm sure, in the Udahl election of '03, and I want to make
17 sure that the numbers come out the same. Because that won't
18 look too good going into the presidential if that is the
19 case. So that's our goal and that's what we would invite
20 the Secretary of State to do concerning this issue.

21 PANEL MEMBER REYNOLDS: And I have some other
22 common practical questions from Dawn. The equipment that
23 gets used, and maybe the Registrar would want to answer some
24 of this too. I just tested the system so to speak and I
25 noticed that the head of the pen kind of flattens out on

1 you. Do you anticipate having one of these felt markers
2 available for the whole day? I was just wondering are these
3 things going to hold up?

4 MS. MCCORMICK: Well, actually, what we anticipate
5 doing is having a lot of them available for the whole day.
6 We've also left the lids off for up to 36 hours without an
7 ink dry-out problem, with the polls being never open more
8 than 13. We intend to really try to destroy these pens and
9 spend many hours voting with them. But our goal is to put
10 many pens in everybody's supplies and to require the poll
11 workers to go and test them, and, of course, if the voter
12 has a problem with one, take it out of service. We also are
13 committing to every election to having brand new ones out
14 there, we're not going to try to reuse them. It's a small
15 expense on an interim voting system.

16 And this is an interim voting system. We're not
17 looking to have this last very long. This is not our goal
18 at all. So we certainly want to after the Udahl election of
19 '03, we'll throw all those pens away, get all new pens,
20 after the primaries, throw all those away. Again, it's a
21 minimal expense for us. I don't have a number we would put
22 in each supply box, but I would imagine it will be at least
23 25 or 30 or 40. But after we do a lot of testing, if we
24 decide it will be 50, we will put 50 in them.

25 PANEL MEMBER REYNOLDS: And I tried to use a

1 ballpoint pen to mark the ballot. The felt marker works
2 great, it fills the hole completely, it marks the ballot
3 designation completely. But a ballpoint pen, I swirled it
4 around a little bit and ended up with a mark that was
5 clearly inside the guide, but it didn't fill. So would you
6 anticipate, and I know this is getting down to some nitty
7 gritty detail, but I'm kind of curious about what kinds of
8 things could happen, what kind of challenges could arise,
9 those type of things. Do you anticipate remaking a ballot
10 like this or will it be read?

11 MS. MCCORMICK: No. We said after Friday we would
12 remake anything that doesn't completely fill the circle.

13 PANEL MEMBER REYNOLDS: Okay.

14 MS. MCCORMICK: We changed the procedures to say
15 that. Actually, most of them read. They tried many
16 different varieties on Friday when they were in our office.
17 It's just a little pen count, and almost all of them read.
18 But why take that chance, it just doesn't make any sense to
19 me to do that. I mean I don't want to be the one on the
20 other side when there's a recount and somebody says, well,
21 gee, that didn't count. So even though I think that most of
22 them would count, we're going to completely fill the circle.
23 So if it's a precinct ballot that someone by mistake doesn't
24 use the pen they're supposed to use and tries to use their
25 own. I think they would probably figure that out when they

1 took it out, but maybe they wouldn't, and if we get precinct
2 ballots back like that, we would remake them.

3 I think it's mostly going to be the absentees and
4 it's going to be really crucial that the big explanation to
5 completely fill in the -- and I think any optical scan
6 system is subject to that. I think a lot of the -- all of
7 the touch screen systems now have the optical scan absentee
8 component.

9 It will be interesting to see how Alameda does
10 with that, with the election coming up on November 5th, to
11 see whether or not, you know, if they completely connect the
12 dot or whatever it is, and just from looking at other
13 states, there are those that don't count and don't read. So
14 my feeling is let's just make sure the whole circle is
15 filled and if it's not, set it in the remake. We're very
16 fortunate in California to have 28 days, we don't have to
17 remake them all right then and there, and indeed, we don't
18 in our county. We can take a lot of time. And so I don't
19 think that that's going to be the problem. If we had to
20 deal with some of these states' two or three days, it would
21 be a huge problem. We don't have that problem.

22 PANEL MEMBER REYNOLDS: And let me ask one final
23 question. So if you find a ballot that you decide needs to
24 be remade, I assume there's a procedure for keeping the
25 original --

1 MS. MCCORMICK: Yes.

2 PANEL MEMBER REYNOLDS: -- so that you can --

3 MS. MCCORMICK: We have that same procedure now.

4 All that's required, it's in the Votamatic procedures where
5 the remade ballot is retained and paper clipped next to the
6 original ballot, and we have recounts all the time, and
7 that's what we have done. If we do overmark them with a
8 highlighter, the other, the black will come up through
9 the -- anything that's not voted in black, we wouldn't go
10 over with a highlighter, because we're not going to take a
11 chance of it now showing through the original mark. I think
12 most of them will get remade. We have a huge remake board
13 election night right now. We're in punch cards folks, we
14 have a lot of punch card issues where we have to remake
15 ballots. We have about 20 or 30 people election night that
16 are just on a remake board.

17 PANEL MEMBER REYNOLDS: And I just have one final
18 question --

19 MS. MCCORMICK: It's not really much different
20 than what we're doing now.

21 PANEL MEMBER REYNOLDS: And I think this may be
22 more of a legal counsel question, I'm not sure. The timing
23 of the certification of this system and it's use, there's a
24 bill, AB 2525 that's going to take effect on January 1st,
25 and what that bill says is that when a county upgrades its

1 system, there's a requirement that depending on availability
2 of state or federal funds that at least one new voting unit
3 per polling place has got to be fully accessible. This
4 system is certainly not fully accessible in the way I think
5 that that bill specifies. Is the timing of this
6 certification going to work in terms of your creating a
7 transitional system, are you going to have to take on the
8 requirement, or will the county have to take on the
9 requirement of a fully accessible voting unit per polling
10 place, considering the timing of this certification, its
11 implementation and the effect of AB 2525, or does anyone
12 have an answer for that question? It's a three-part
13 question.

14 CHAIRPERSON JENNINGS: Mr. Trout, do you have an
15 answer to that?

16 PANEL MEMBER TROUT: I think ultimately it's going
17 to be the LA County Counsel's decision on whether they're in
18 compliance with the law, because the county is going to get
19 sued if some disabled group feels that they don't have
20 access under 2525. We have started a review of the new laws
21 that were passed in this legislative session. We have
22 started to take a look at AB 2525, but at this point I don't
23 think we're prepared to make a formal opinion on that. And,
24 again, that's LA County jurisdiction, they're going to be
25 the ones that are going to have to defend it. And so it's

1 going to be their call.

2 PANEL MEMBER REYNOLDS: Well, I will note, just to
3 have it expressed orally, that there's a mention, I think in
4 this report, of an outreach program and an early voting
5 program --

6 MS. MEHLHAFF: Correct.

7 PANEL MEMBER REYNOLDS: -- that would be fully
8 accessible and I imagine there would be some targeting for
9 the blind and visually impaired community, in particular,
10 who is behind that piece of legislation. So I know that LA
11 County is making good-faith efforts to reach out and make
12 their polls fully accessible and available. I'm just
13 curious about the timing and confluence of these events.
14 Thank you.

15 CHAIRPERSON JENNINGS: As I remember, and Connie
16 you can correct me, you plan to have at least 20 sites
17 available with a DRE machine that's fully accessible, am I
18 right, during the early voting period and also on election
19 day?

20 MS. MCCORMICK: That's correct, Bob. During the
21 early voting period, as we have right now, we go through
22 this Friday, 21 sites, one of which is the Braille
23 Institute. Every one of the sites has at least one audio
24 component blind unit. We've had many e-mails and letters
25 already from lots of voters who have used them for this

1 election, they are really excited about it. The Braille
2 Institute has all fully accessible, they've had several
3 hundred people voting there. We have made a commitment to
4 always have it available up through election day at 8:00
5 o'clock at our office.

6 The reason, we have to close the early voting at
7 some point or it's not early voting, and how do you notify
8 the poll workers and that type of thing of who voted. But
9 at our office we're having from the Friday on the voting
10 that will occur Saturday, Sunday, and Monday, and up until
11 8:00 o'clock Tuesday. It will be a provisional process on
12 the touch screen unit, which is really transparent to the
13 voter. It's into the software that we aren't commingling
14 those results. We'll make sure they don't go to the polls
15 first before we count them. But they vote the same way once
16 they get to the unit. But we didn't want to have
17 potentially tens of thousands like that we'd have to worry
18 about provisionally checking each one, but we think at our
19 location there won't be that many.

20 CHAIRPERSON JENNINGS: And I also noted in the
21 procedures that you will have a wheelchair access
22 availability at each polling place to be able to use the Ink
23 A Vote; is that correct?

24 MS. MCCORMICK: We do, and we have that currently
25 with the punch card. The devices are really very similar.

1 If anything, it's more likely to take to the curb and also
2 for the voting booth to be accessible for the wheelchair.
3 So the issue really does become the blind. We think of this
4 system as a modification more than an upgrade. But how the
5 law will be interpreted, of course, at this point our
6 counsel is aware of it. We don't think it's a problem, but
7 of course we're used to defending lawsuits on every possible
8 thing. So we will wait and see. But we don't anticipate it
9 being an issue. We have talked to our community. They know
10 what our direction is in LA County, that we're moving
11 forward in good faith in a phased-in approach and they're
12 excited about it.

13 And we do have a full voting accessibility
14 advisory committee. I did sit down with them just this past
15 Monday, two days ago, and talked to them about the Ink A
16 Vote System, explained to them what the process is, and one
17 of the blind people I was speaking with -- we have a
18 downtown location for early voting and he was unaware that
19 he could go and do it, because he hadn't read the materials.
20 So he was going to go down to the downtown location and try
21 it out.

22 So I think we need to get more publicity. We have
23 been very unhappy about the level of publicity we've had in
24 LA about the early voting. We have been really trying very
25 hard, but we have had less publicity than we hoped. It is

1 in every sample ballot, of course. If people open the
2 sample ballot, it explains what's available. But we have
3 had about 8,500 so far for this election.

4 CHAIRPERSON JENNINGS: Thank you. Any other
5 comments or questions from members of the panel?

6 PANEL MEMBER TROUT: I have one while I've got the
7 mike pointing at me. I know that it's come up in the past,
8 because this is the same as the Votamatic system, but now in
9 every polling place, or in every voting booth, people are
10 going to have a pen to be able to mark the ballot. And one
11 of my concerns is that it's now a lot easier to make marks
12 on each of these pages. And so like right now I've
13 crossed -- you know, I've scratched out one of the
14 candidates and put a little star by it. You know, when I'm
15 voting, I'm kind of going down and looking at it like that
16 and the name I might make a tick or something like that. Is
17 there anything procedurewise? I doubt that there's
18 anything, and maybe this is a question for staff, anything
19 that you can put on the pages to keep it from being written
20 on? But then also maybe having a review process to go
21 through every so often to make sure there's no marks on the
22 pages showing candidates?

23 MS. MCCORMICK: I appreciate that, but Mike
24 actually knows what the --

25 PANEL MEMBER TROUT: Well, I'd love to hear what

1 he says. But I'd like to hear what staff has to say first,
2 and then we'd love to hear what you have to say.

3 MS. MEHLHAFF: When we tested the system on
4 Friday, that was a concern that we brought up as well, was
5 that people could mark on the ballot pages and then the
6 person before them or, you know, subsequent voters later
7 could see a cross out or a mark. And they actually showed
8 us pages that they are going to use for these devices that
9 are laminated, that if you mark on it, it just wipes right
10 off. So they fulfilled our request in that aspect. And I
11 guess Mike could talk to their procedures since that was a
12 new thing, as far as how they intend to check those pages
13 throughout the day or wipe them clean. But it does wipe
14 right off with the pages they showed us on Friday.

15 CHAIRPERSON JENNINGS: Would you introduce
16 yourself, please?

17 MR. PETRUCELLO: Mike Petrucello, LA County
18 Registrar Recorder. We're switching the hinges to black.
19 The hinges that are holding the page are chrome silver now,
20 and we're switching this yellow mask that restricts you from
21 voting where there isn't a candidate, we're switching that
22 to black as on the models there.

23 MS. MCCORMICK: And then the pages themselves are
24 going to have some sort of treatment on them that will have
25 more --

1 MR. PETRUCELLO: The pages will be glossy, it will
2 be a procedure to have the poll inspector check the pages
3 and make sure there isn't any writing on them.

4 PANEL MEMBER TROUT: I missed the procedures I
5 guess. How often are they going to check that, or is it
6 just going to be if somebody comes and complains, they go
7 and wipe it off?

8 MR. PETRUCELLO: It will be a formalized
9 procedure.

10 MS. MCCORMICK: We haven't written the procedure
11 for that.

12 PANEL MEMBER TROUT: Okay. Thank you.

13 CHAIRPERSON JENNINGS: Any other comments or
14 questions?

15 I had one question, but then you answered it, I
16 believe, Connie. You didn't plan to use this in March of
17 next year, you're looking at November of next year, the
18 Udahl election in 2003?

19 MS. MCCORMICK: That's correct. November of 2003.

20 CHAIRPERSON JENNINGS: All right.

21 MS. MCCORMICK: We can still use the punch card in
22 March, if we have March elections.

23 CHAIRPERSON JENNINGS: All of the other questions
24 I had on my sheet have been answered.

25 Do we have any comments or questions from the

1 audience?

2 If not, I would entertain a motion for the
3 recommendation to Secretary Jones for certification of this
4 system, Ink A Vote Optical Scan Voting System.

5 PANEL MEMBER MOTT-SMITH: I'll make that motion.

6 CHAIRPERSON JENNINGS: It's been moved by John
7 Mott-Smith. John, I noted in the staff report, I didn't
8 mean to interrupt you, in the applicant report that there
9 was a condition in the suggested motion that the applicant
10 report to the Secretary of State on or before January 1,
11 2005, the overvote and undervote results of the 2004 primary
12 and general elections, and I think that the recommendation
13 should be moved to January 1, 2004, to report on their Udahl
14 election in November of 2003.

15 MS. MCCORMICK: It might not be comparable, the
16 over and undervotes may not be comparable between and '02
17 and '03. Usually the undervote is the top of the ticket,
18 and there really isn't a top of the ticket in the Udahl
19 election. If somebody can tell us how they would like us to
20 do that, we'd be glad to do it. I just don't know that it
21 would prove what you're trying to prove. But we'd be glad
22 to do that.

23 PANEL MEMBER MOTT-SMITH: Well, taking Bob's
24 suggestion, I think it's worthwhile -- excuse me. I think
25 the sense of what these conditions are is to evaluate the

1 voter and poll worker acceptance of the equipment. So
2 having the report, even if there are limits on its
3 usability, for the '03 election, and then again for the '04
4 election, I would move the staff recommendation,
5 essentially, with Bob's modification that there be a report
6 after the '03 election, and then there be a report after the
7 '04 elections as well.

8 MS. MCCORMICK: We'd be glad to do that. We will
9 want to do that for ourselves, so we would be glad to do it
10 for you too.

11 PANEL MEMBER MOTT-SMITH: Right. I would expect
12 that you would do that. And I make this motion out of my
13 own sense that this is a transitional system for the County
14 of Los Angeles. The Board of Supervisors has not lightly
15 decided that they have to go through a transitional system
16 in response to the need to upgrade their voting system. It
17 does seem to me that the county is making every effort to
18 make this as voter friendly as possible to minimize the
19 chance that there's two transitions demanded in terms of
20 education, et cetera, and this machine is better than
21 anything else that is possibly out there. And the county's
22 commitment to do what the City of Los Angeles did for their
23 mayoral election in 2003, which is to manually inspect every
24 single ballot and look at voter intent before the card goes
25 through the card reader, is a significant commitment. I

1 think that it strengthens this application. So for those
2 reasons, I'm moving the staff recommendation with Bob's
3 changes.

4 CHAIRPERSON JENNINGS: Do I have a second to his
5 motion?

6 PANEL MEMBER GUTIERREZ: Second.

7 PANEL MEMBER REYNOLDS: Second.

8 CHAIRPERSON JENNINGS: Which one came first?

9 John Gutierrez seconded the motion.

10 Do we have any further discussion?

11 PANEL MEMBER GUTIERREZ: I'd like to make a
12 comment, if it's okay with the Chair?

13 A couple things. I want to commend you, Connie,
14 for really the excellent job that you've done in trying to
15 deal with a very difficult election coming up. I think this
16 is a very creative application of the technology that's
17 already there and a good solution from the taxpayers'
18 perspective. So congratulations.

19 And, Dawn, again, you guys have done a great job
20 of testing the system and laying out your assumptions as to
21 how you tested it, and I commend you for your report.

22 CHAIRPERSON JENNINGS: Thank you. Any other
23 comments from members of the panel, members of the audience?
24 If not, I'll call for the questions. All in favor of the
25 motion, signify by saying aye.

1 (Ayes.)

2 CHAIRPERSON JENNINGS: And opposed, the same sign.

3 The motion passes unanimously.

4 Our next item on the agenda that we want to
5 discuss is the fact that we asked, and I forget which
6 meeting it was, we have had several, But in one of our
7 previous meetings, we asked if, following the Florida
8 elections, if the three vendors that had systems working in
9 Florida would do an analysis of what happened in Florida
10 with respect to their systems and give us a report and
11 recommendation that we as a panel might be able to use in
12 terms of making our certification process stronger or
13 better, and also the procedures that we would adopt. You
14 might have some additional procedures that we would include
15 with respect to advising registrars of voters on new
16 procedures that they might consider implementing.

17 We received written reports from those three
18 vendors, ES&S, Sequoia, and Diebold. And I would offer that
19 any of the people representing any one of those firms would
20 like to make a verbal presentation at this time, we would be
21 happy to have you do so. It would enter on to the record.
22 I would ask that you talk about, one, your experience, but
23 also the recommendations that you might have. Although we
24 have them in writing and they're a part of a summary report
25 prepared by staff that we have all reviewed, I still think

1 there's an opportunity here for perhaps some interchange
2 between this panel and the individual companies involved.
3 So do we have anyone from might I ask, I'll just start with
4 ES&S, for instance, that would like to make comments with
5 respect to their analysis of the Florida vote.

6 I can't see you. I'm sorry, you're in the dark up
7 there.

8 MR. TESI: Aldo Tesi, I'd like to make some
9 comments.

10 CHAIRPERSON JENNINGS: Mr. Tesi, go ahead.

11 GENERAL COUNSEL WOOD: Excuse me, Mr. Chairman.
12 Bill Wood. If I could just make a housekeeping suggestion,
13 I don't know if the microphone at the podium is operative,
14 but that might be a good venue for people to make these
15 comments.

16 I was going to say, I can vacate this chair and
17 they can speak from here.

18 CHAIRPERSON JENNINGS: Mr. Tesi, would you mind
19 coming to the front table here.

20 Thank you, Mr. Wood.

21 MR. TESI: Well, thank you.

22 CHAIRPERSON JENNINGS: Would you fully introduce
23 yourself and your position please, for the record.

24 MR. TESI: Yes. My name is Aldo Tesi. I'm the
25 President and CEO of Election Systems and Software.

1 First of all, I want to make just one remark and
2 thank you for this opportunity. I think it's important that
3 we try to learn from the past, and I think it's very
4 positive that the Voting Systems Panel is taking these kind
5 of efforts to be better going forward for the state of
6 California and all the counties.

7 ES&S has had a long history of 25 years of having
8 a very strong commitment to our customers, the counties and
9 the states that we service. And that commitment is centered
10 around having quality, accurate, and trouble-free elections.
11 In September, we supported 1,018 elections, 814, in fact, on
12 September 10th. When we break that down, there were 85
13 counties we supported in Georgia, 18 in Maryland, and 30 in
14 Florida. And, as you know, our report focused primarily on
15 those new counties, the counties that had recently moved to
16 a new voting system, and those in Florida, because we
17 thought that would best serve the purpose for the Voting
18 Systems Panel in their efforts to look at deploying touch
19 screen voting in California.

20 When we look at what was the root cause of the
21 issues in Florida, it centers around planning, testing, and
22 training. And when we look back, we believe that through
23 better planning, in terms of having more time to implement
24 the solutions, thinking and anticipating some of the things
25 that can occur at the actual precinct or with the voter, and

1 having better planning processes in place would have
2 improved the environment, as well as testing. We look back
3 and we say there could have been improved testing, not only
4 in the certification process, but mostly at the level of the
5 counties themselves and being prepared. And then of course
6 training. And training really turned out to be the primary
7 root cause of most of the problems. The Secretary of State
8 and some independent reviews by both Miami and Broward
9 confirmed that it was administration coordination and
10 improper training that caused most of the problems.

11 CHAIRPERSON JENNINGS: Did you say proper or
12 improper?

13 MS. TESI: Improper, sorry.

14 While Miami and Broward experienced some issues,
15 and I will want to comment on those a little bit, there were
16 nine other counties that had very successful elections using
17 the iVotronic. And so when we look back and we try to
18 compare what happened in those counties with Miami and
19 Broward, one of the things that really stands out is the
20 training itself. In the other nine counties, their training
21 process was one that involved more hours training for each
22 poll worker, more hands-on usage of the system, and they
23 actually provided a test at the end where they certify the
24 poll workers.

25 In Miami and Broward, a majority of the poll

1 workers were provided a three-hour videotape that walked
2 them through the actual training. There was no testing and
3 there was limited hands-on instructions in the county. ES&S
4 was not responsible for the training. It was the
5 responsibility of the county and that was something that
6 they wanted to take on. We made many recommendations and in
7 the end we look back and hope that we should have insisted
8 that some of these procedures and things that we've used in
9 the past have been put in place.

10 There were 22,480 units used in the state for
11 these 11 counties for full election-wide usage, as well as
12 13 other counties for early voting. And of those 22,480
13 units, only four units required technical intervention in
14 the election. So the units themselves performed remarkably
15 well.

16 So what has happened since September 10th, in
17 Miami, in Broward, and the rest of Florida. Well, we had a
18 user meeting following the September 10th election asking
19 our customers for any input, any advice, any suggestions
20 going forward, and in general we received very positive
21 comments regarding the voting system and the support that we
22 provided. We have been working quite closely with Miami and
23 Broward in a proactive way to address some of the training
24 issues, the procedures, and we're going to provide
25 additional support.

1 Since September 10th, Miami has actually conducted
2 five city elections with the same voting system and the same
3 procedures, and I'd like to read an article that was in the
4 Washington paper down in Miami. It says, five polling
5 stations in Opa Locka, nine miles north of Miami opened on
6 time at 7:00 a.m. and all the touch screen voting machines
7 quickly got up and running. We used the same procedure, the
8 same kind of teams that will be used November 5th. We
9 wanted this to be as close to a real dress rehearsal as
10 possible. The county has revamped training in election
11 workers. And these are quotes from David Leahy, who's the
12 Election Director in Miami.

13 Also early voting has opened up in Miami and
14 Broward and all the other counties with the iVotronic system
15 and we have not experienced any issues, with the exception
16 of some poll workers on the first day at one early voting
17 site in Miami not showing up. But had no issues in opening
18 those sites on time and the voters have been able to vote at
19 each one of those sites with no issues.

20 So as we go into November 5th, we're all a little
21 bit nervous, because we're relying upon the poll workers and
22 election administrators and the voters to all come together
23 and do it well, and we're optimistic that the added
24 attention and the wake-up call from September 10th will help
25 us be better prepared to go into that.

1 So with that, I'll --

2 CHAIRPERSON JENNINGS: Mr. Tesi, would you mind
3 taking some questions from the panel members?

4 MR. TESI: Yeah, sure.

5 PANEL MEMBER SORIANO: You had mentioned that four
6 of the units of the 22,000 or so actual units had some
7 problems. The report that we had speaks to a third of the
8 units having their memory cards or the iVotronics' memory
9 cards being incorrectly installed. That problem is not
10 considered a technical problem?

11 MR. TESI: Well, yeah. When we look at an actual
12 machine problem, that's different than what I would call a
13 procedural issue. If the memory cards were put in
14 correctly, the machines would have worked correctly. And
15 what had happened was the memory cards were put in by county
16 employees, and unfortunately, a high percentage of those, we
17 don't know exactly how many, but I would say between 25 and
18 30 percent of the units, the flashcards were not properly
19 sealed into the unit correctly. Either put in upside down
20 or not put in all the way. And then the units itself are
21 sealed in the back, because the audit data is on that and
22 they don't want to have anybody have access to that. So the
23 poll workers themselves, without a technical person coming
24 in, could not access that area.

25 CHAIRPERSON JENNINGS: Any other comments?

1 PANEL MEMBER TROUT: Given that there's problems,
2 whether it's from the poll worker or with the system or
3 whatever, how do we help train poll workers better and how
4 can we work together with -- you know, how can election
5 officials and vendors get better communication and training
6 back and forth so that we don't have this the machine worked
7 fine, but the poll workers didn't, and everybody blaming
8 each other and get to the point where we can get better
9 training? I guess what I'm saying is what skills do county
10 election administrators need to be able to convey and train
11 their poll workers so that we won't have these kind of
12 procedural issues that you described?

13 MR. TESI: Okay. That's a great question, because
14 I think it hits at the root of the issues there. We think
15 that the unit itself and what it takes to operate it
16 successfully is a trainable process. We've had elections in
17 Colorado, in Ohio, and in other parts of the country, New
18 Jersey, and as well as nine other counties in Florida that
19 used the same system and had successful training. And when
20 we look back at that, it was not so much that the skill set,
21 but just having the patience and time to walk the poll
22 worker through what's going to really happen, having them
23 have hands-on experience with the unit, limit the size of
24 the class, have just better training processes in place,
25 validate that they really did get it, you know, in terms of

1 having them actually open up a precinct together in a trial
2 run. Have them take a test to be certified a certain level,
3 having different levels of poll workers, maybe over time.
4 These are things we believe that -- we're hoping to do in
5 California is to have kind of a certification-type program
6 for the poll workers and the election office itself to make
7 sure that the knowledge transfer has occurred properly and
8 that these people are prepared to be successful at the
9 election day itself.

10 PANEL MEMBER TROUT: Just to follow up. How much
11 time do you think would be necessary to fully train a poll
12 worker to be able to do everything you think is needed to
13 have the system perform as it's been designed?

14 MR. TESI: I think there's different levels of
15 training. I think if I were to go to the highest level
16 would be totally prepared for not only how to properly use
17 the equipment, but also know how to take corrective measure
18 in case something occurs. I would say anywhere between
19 eight to ten hours of training.

20 PANEL MEMBER TROUT: Thank you.

21 MR. TESI: You know, and that's what we
22 experienced. Pasco County provided that, Sarasota, Lee
23 County, Collier, that's what their experience is. Now, most
24 of the poll workers, they train what's called like a master
25 poll worker, but the other poll workers received what we

1 call two to three hours of general training.

2 PANEL MEMBER TROUT: Thank you.

3 CHAIRPERSON JENNINGS: Mr. Mott-Smith.

4 PANEL MEMBER MOTT-SMITH: A lot of what's
5 identified in the reports and in what you guys submitted to
6 us is contractual between you and the counties. There's not
7 that much that is pertinent for action in terms of what the
8 Voting Systems Panel can and cannot do. But I have a couple
9 of questions for you in terms of what our responsibilities
10 are in that sense. They come out of a couple of the
11 recommendations from yours and the other vendors' reports.

12 One of the suggestions for a requirement was that
13 there be no changes made to a system, software or otherwise,
14 at some time period prior to an election. Would you have a
15 problem with that?

16 MR. TESI: Not at all.

17 PANEL MEMBER MOTT-SMITH: There's also --

18 MR. TESI: I should say, you know, it's subject to
19 any kind of legislative changes that would be asked to be
20 supportive I mean in terms of the timeframe. But really
21 from a standpoint of locking down the software, the
22 firmware, and the hardware and how it operates, we would
23 actually encourage that, because we think it's good not to
24 have a moving target. And that's something that, you know,
25 you have got to know what you're training to as you go

1 forward.

2 PANEL MEMBER MOTT-SMITH: But I guess if we could
3 spend a moment on that. Do you have the staff report in
4 front of you there? Dawn do you have that?

5 MR. TESI: Is it this right here?

6 MS. MEHLHAFF: Yes.

7 PANEL MEMBER MOTT-SMITH: The last section of it,
8 problems in the September 2002 Florida Primary, second page
9 summary of problems in Miami-Dade County.

10 MR. TESI: Okay.

11 PANEL MEMBER MOTT-SMITH: Item 2C. Tri-Lingual
12 Ballot and Change to Bitmap Technology. Could you walk us
13 through your interpretation of what happened and why it
14 happened in Florida, in terms of why those changes were made
15 and why they were made so late in the game?

16 MR. TESI: Well, the original certification of the
17 bitmap voting software actually occurred in June of 2002.
18 And after that, David Leahy requested us to make some
19 additional changes to that system, and the changes were made
20 in such a way that we had to go through the certification
21 process. We had to take it through the ITAs first and then
22 take it through the Florida certification process. And
23 that's why those happened up to the August 21st date. But
24 the original, there was a bitmap certified system in June,
25 it was -- the target was May, but there was some additional

1 requirements and changes made for quality reasons, and we
2 ended up doing the certification in June.

3 PANEL MEMBER MOTT-SMITH: The technology that you
4 have certified in California, is it bitmap or --

5 MR. TESI: Both.

6 PANEL MEMBER MOTT-SMITH: So you have greater than
7 bilingual capability in the systems that are currently
8 certified in California?

9 MR. TESI: Yes, we do.

10 PANEL MEMBER MOTT-SMITH: I guess my second
11 question that comes out of the recommendation is there's a
12 suggestion that we test not only for technical performance
13 of the machine and its acceptance by disabled groups, et
14 cetera, but that we also include poll workers in the
15 evaluation of how the machine works. It seems that that was
16 a central issue training, for eight hours of training or two
17 hours. Do you have any problems with conditions from this
18 body based on requiring testing by focus groups of poll
19 workers or other people who would potentially be opening and
20 closing polls, et cetera?

21 MR. TESI: No, we would have no problem with that
22 at all. We want to support making the process of voting the
23 best it could be, and if, in fact, poll workers have some
24 valid input, we as a company should address those. And we
25 would welcome that opportunity.

1 PANEL MEMBER MOTT-SMITH: Okay. I guess my only
2 other comment to you that I would like you to respond to is
3 one thing that we have been concerned about in very serious
4 terms is the short procurement process. The requirement
5 that conversion be done under artificially driven time
6 constraints, rather than what the election official would
7 see as a proper transition period that would involve runoff
8 elections. And my understanding is if you had runoff
9 elections in Miami Dade, they were so small as to not
10 operate effectively to train poll workers or to train staff
11 or whatever. There wasn't an effective opportunity for
12 either voters or poll workers to begin to understand how to
13 use the new equipment. Some of the changes that you
14 experienced late in the game similarly seem to come out of
15 the fact that there was a very short time period to convert.
16 And I guess that's a general concern, and I'd be interested
17 in your observations.

18 MR. TESI: Well, the only comment I would make is
19 that nine out of the eleven counties, and 13 others that
20 used optical scan, but the iVotronic for early voting, but
21 optical scan for election day, managed successful elections
22 within those timeframes. It's unfortunate that what we
23 experienced in Broward and Miami did not accomplish that.
24 And I would say that we need to take the time to do it well.
25 And I think that's going to vary by county and what's

1 required.

2 And I would encourage the Voting Systems Panel to
3 allow the counties to have the time to have proper planning
4 and to do proper testing, and to have proper training, so
5 that we are prepared. And I can't speak to what that time
6 is. I would say that Florida did put some very tight
7 timeframes on the counties there saying by 2002 they had to
8 run the elections using systems that provided greater voter
9 protection and allowed for corrective actions at the
10 precinct itself. But what I'm seeing in California is an
11 environment that will hopefully support extended timeframes
12 to implement that, based upon the counties' needs and
13 demands. So we would encourage the time. We're not in a
14 rush to do it, we'd rather do it well. And we would support
15 those extended timeframes.

16 CHAIRPERSON JENNINGS: Any other questions from
17 members of the panel?

18 I think it's important for us to have this
19 dialogue and, Mr. Tesi, I thank you for the time you spent
20 with us, for coming up and joining us today.

21 MR. TESI: Well, thank you again for the
22 opportunity.

23 CHAIRPERSON JENNINGS: You bet.

24 Next, do we have a representative from Sequoia
25 Voting Systems who would like to make some testimony?

1 Kathryn?

2 MS. FERGUSON: Good morning. I'm Kathryn Ferguson
3 with Sequoia Voting Systems. And I'd like to thank you for
4 inviting us to help you understand both the challenges and
5 successes experienced during the recent primary elections in
6 Florida, Georgia, Maryland, and Washington.

7 I think we all know that no elections are perfect
8 ever. But in the 14 years that Sequoia has been performing
9 daily installations and from punch card to DRE since 1994,
10 experience has taught us that the same types of problems
11 arise again and again and should be able to be anticipated
12 and addressed with proper planning and contingency planning.
13 These are exacerbated in the large, more complex
14 jurisdictions, which of course are obviously more vulnerable
15 to the kind of things we saw in Miami-Dade and Broward, as
16 opposed to the smaller counties in Florida using the same
17 systems.

18 It is our opinion that the successes and failures
19 we witnessed during the recent installations of touch screen
20 systems are specific to individual vendors and counties.
21 They are not an indication of any sort of larger problem
22 with the current state of technology or the reforms that
23 have been initiated here in California and replicated in
24 other states, and in the recently passed federal election
25 reform legislation.

1 California is not like any other states, and
2 having been a registrar of voters here, I was honored to
3 serve in that capacity. I think with the proactive
4 leadership of both Bill Jones and the California county
5 election officers, you're in a much better position to deal
6 with these sorts of issues coming up.

7 Most of the problems that occurred during the
8 recent voting system installations in Georgia and Maryland
9 and Florida, and especially the counties of Miami-Dade and
10 Broward, can be attributed to one of the following, in our
11 opinion. A system design that overwhelmed the poll workers;
12 incomplete software development and certification; late
13 delivery of untested equipment; equipment malfunction; the
14 lack of clearly defined and established procedures,
15 instructions, and training materials; and the lack of
16 appropriate contingency plans.

17 All of these failures are failures on the part of
18 the vendor to act as a strategic business partner of the
19 jurisdiction and effectively manage the risks of the
20 installation, regardless of whether these deliverables were
21 clearly stipulated in the respective contracts.

22 Our written report submitted to this panel
23 outlines a number of specific problems and includes a number
24 of recommendations for consideration by the Voting Systems
25 Panel and the State of California. We focus on the vendors

1 because that is who you deal with and that is where your
2 leverage is, as we see it, in this process.

3 This morning I will spend some time discussing
4 specific problems that we witnessed, but I would also like
5 to discuss why the counties we supported did not experience
6 the same level of difficulties that were observed elsewhere.

7 Whenever a conversion to a direct recording
8 electronic voting system fails, it can inevitably be traced
9 to some level of the vendor failing to adequately support
10 the jurisdiction throughout the transition. We have found
11 that based upon the resources and the sophistication of the
12 county that we're dealing with, we may have to provide much
13 more resources than we would with other county
14 installations, and this may affect our profit ratio. But in
15 the end, we have to be committed to the county up front to
16 do whatever is necessary. And sometimes the county's
17 resources are certainly outside of our control and we try to
18 anticipate that and put our most experienced people there
19 and provide them with predeveloped training materials, voter
20 education materials, and instructional materials, and
21 especially warehouse procedures and set up.

22 We think that many of the problems experienced in
23 Miami-Dade and Broward County's elections on September the
24 10th could have and should have been anticipated by the
25 vendor and the county, and despite public claims to the

1 contrary, the mistakes did not begin and end with
2 problematic county election officials and poll workers.

3 From our review of available facts, it appears
4 that the project management failures had the most severe
5 effects on the election were these. Late manufacture and
6 delivery of equipment prevented the counties from being able
7 to conduct sufficient acceptance testing of the equipment.
8 I know as someone who implemented from punch card to DRE
9 conversion back in 1994, acceptance testing was an extremely
10 critical part of the process, and we certainly found some
11 flaws in some of the equipment as we accepted it. And we
12 tried to heavily test it with lots of votes so that we could
13 burn it for several days and discover whatever weak parts
14 there might be. I don't think these counties were allowed
15 to do that, and that's really critical.

16 Also they needed to have more time for voter
17 education and possible demonstration elections or smaller
18 elections up front. And, of course, for poll worker
19 training to be able to test it, find the problems, and
20 redefine the procedures in time before poll worker training
21 starts.

22 An inability to accommodate the tri-lingual
23 ballots in Miami-Dade required last minute equipment upgrade
24 that was not completed in time for the poll worker training.

25 And from our accounts a vendor mistake eliminated

1 statutorily required language from the ballot, which
2 required another last minute replacement of the flash memory
3 cards. And since they could be installed upside down, that
4 seemed to be a design problem from our point of view,
5 because you're always going to have the human element, and I
6 think the most important thing in your design of your
7 product and your procedures is to mitigate whatever errors
8 those human beings are likely to make.

9 It appears that the vendor was not sufficiently
10 involved in poll worker training to identify potential
11 problems and warn election officials to provide more
12 extensive training well before election day.

13 In short, based on the information available, it
14 appears that the majority of election day problems
15 experienced by poll workers and voters were exacerbated by
16 deficient project management on the outset of the
17 installation, both on the part of the county and the vendor.

18 We have been at Sequoia Voting Systems helping
19 counties make the transition from punch cards and optical
20 scan ballots to direct record electronic voting since 1994.
21 We have been doing electronic conversion since 1988. As
22 this panel is aware, in November 2000, we worked with
23 Michelle Townsend in Riverside County to convert their
24 county from optical scan ballots to the nation's first major
25 countywide installation of touch screen voting equipment.

1 When contrasted with the nightmarish results of
2 the 2000 presidential election in Florida, the success of
3 the installation in Michelle Townsend's county provided the
4 impetus for a national movement to modernize voting
5 technology, including the passage of Proposition 41 in
6 California and the new federal election reform legislation
7 signed by President Bush yesterday.

8 The success of the Riverside project was due to
9 significant commitment of resources and experienced
10 personnel, both from Sequoia and the county, as well as the
11 leadership of Michelle Townsend. Those positive results
12 were replicated in 2002, in the September 10th primary, and
13 the September 17th primary in Washington, on our AVC Edge
14 touch screen voting systems. In Palm Beach County, Florida,
15 which is the third largest county in Florida, and arguably
16 the most scrutinized county in the nation since the 2000
17 presidential election and the butterfly ballot, Pinellas
18 County, Florida, which is the fourth largest county,
19 Hillsborough County, Florida, which is the fifth largest
20 county, and Indian River County, Florida, which is a smaller
21 county.

22 We also performed an implementation in Snohomish
23 County, Washington, within six weeks from the time we signed
24 the contract until their September 17th primary election.
25 And during that time, we did have to modify our software.

1 Secretary of State Reed in Washington has hailed that
2 election as being highly successful and a model that he
3 looks forward to replicating in the state of Washington.

4 As noted in our written report, the only issues
5 raised in Sequoia's client counties this year have been
6 minor and had no effect on any voter's ability to cast a
7 ballot.

8 Pre-voting demonstrations. I think we've seen
9 this with the other vendors as well, our poll workers in
10 some polling places attempted to use smart cards to activate
11 the demonstration machines which we put there for them to
12 use to acquaint voters with the machine before they voted.
13 These machines were not designed to be activated with the
14 smart cards, just manually, so there was some confusion with
15 the poll worker training in that regard.

16 The card activators. We send two card activators
17 to each polling place, just as a backup. We think it's very
18 important to have no single point of failure in our election
19 process and with our equipment. And so our machines are
20 able to be manually activated, should the card activators
21 fail, but we do send two to each, so that if one fails, the
22 other would be there for backup.

23 The problem that we had in some polling places and
24 there weren't very many, but was that some of the card
25 activators were sent to the polling places without having

1 been programmed by the county personnel. This was a
2 procedural issue. But they did go to the backup card
3 activators and no voters were prevented from voting.

4 It was noted that the vote tabulation speed in
5 Palm Beach County was excessively slow. And because of the
6 controversy experienced in the county during the November
7 2000 elections, Theresa Lapour, the Supervisor of Elections,
8 opted to backup all vote cartridges prior to tallying the
9 vote. We warned her that this would be a very slow process
10 and result in late returns, but she felt that that was an
11 important safeguard and she wanted to do it under the
12 circumstances, and for her piece of mind she did that. And
13 so their results were slow coming in.

14 Sequoia's successful installations can be
15 attributed to, I believe, a system design that takes into
16 account keeping things as simple as possible for both the
17 poll worker and the voter, and our strong corporate
18 commitment to provide the necessary support to our partners
19 in the county election offices, whatever the cost ends up
20 being. We ensure that sufficient experienced staff are
21 available to advise the county officials throughout the
22 transition to the new technology, from equipment delivery
23 and system integration through election day and the actual
24 certification process.

25 The AVC Edge is designed to minimize election day

1 complexity for poll workers. Ballots are loaded on the Edge
2 and logic and accuracy tests are conducted on each machine
3 before they are delivered to the polling places. This
4 minimizes the poll worker's responsibility and allows
5 precinct officials to activate the equipment by simply
6 powering up the machines. And at the end of the day, all
7 they have to do is turn the key to the off position, polls
8 close, and take the cartridges out and take the
9 automatically printed summary results tape and they're
10 ready.

11 Our Edge is manufactured to precise standards and
12 tested extensively, and it has been based upon the design of
13 our AVC Advantage, which has been in use since 1988. So we
14 have really formalized our manufacturing procedures and
15 testing procedures and quality control.

16 Once the equipment is delivered to a voting
17 jurisdiction, additional acceptance testing is conducted to
18 ensure it is free from any manufacturing defect. As
19 Michelle Townsend can attest, we worked very closely with
20 Riverside County in structuring their acceptance testing
21 procedures and assisting them in that regard.

22 Sequoia's Transition Management Teams ensure that
23 our equipment is in place and our firmware and software
24 enhancements are complete well in advance of election day.
25 We think this is critical to the process so that the county

1 can perform their testing and make sure that their
2 procedures that they have predefined are really going to
3 work for the poll workers and the voters.

4 We think it invites disaster to modify voting
5 systems right up until the day before an election.
6 Recognizing that occasionally unforeseen circumstances may
7 occur on election day, we develop contingency plans for our
8 clients, such as the inclusion of two card activators for
9 each polling place. As stated earlier, no system should
10 ever be vulnerable to a single point of failure.

11 We suggest that this panel and the counties
12 looking to install new voting systems consider the following
13 recommendations. Systems must be easy for voters to
14 understand, systems must be easy for poll workers to set up,
15 close down, and explain to voters. Most difficult tasks
16 should be handled by well-trained professional election
17 officials, instead of poll workers. So to the extent that
18 you can put those preparation procedures at the warehouse
19 level, where you have trained county staff and vendor
20 support, we think that is the best way to go.

21 Also in poll worker recruitment, in my
22 installation in 1994 in Clark County, I certainly had
23 problems with poll worker training. And one of the things I
24 did between the September primary and the November election
25 was to completely revise the training program to the

1 smaller-sized classes, to the hands-on demonstrations, to
2 testing the poll workers.

3 But the other thing that we did in Clark County
4 was I was able to convince the county management that we
5 needed county management-level folks at each polling place,
6 so that the poll workers could continue in their previously
7 defined job roles without a great deal of change in those.
8 And we were lucky enough that the county agreed to do that
9 and specified a certain percentage of each department's
10 management-level staff would participate as poll workers in
11 the election, would be trained. And we had two of those
12 people at every single polling place. So that helped
13 tremendously. Those people were accountable, they were
14 technologically experienced, and, of course, as they were
15 trained once, twice, three times, and they attend training
16 every election, they developed an expertise that you don't
17 find in most places, both at troubleshooting and at
18 overseeing the regular problems in the polling place.

19 Number four. All counties and vendors must plan
20 and implement aggressive poll worker recruitment well in
21 advance of the beginning of training, and of course, voter
22 education activities. They should establish critical event
23 calendars and realistic timelines for product delivery and
24 deployment, and counties must hold vendors accountable for
25 meeting those deadlines.

1 Again, during my installation, I was acting as a
2 beta site, if not an alpha site, with new software being
3 developed so that we could do early voting on the Advantage,
4 which hadn't been done before that time, which made me end
5 up being much later in being able to get the final product
6 and test it than I would have liked. And it came down to a
7 week-by-week meeting of our IS people, our county auditor,
8 us and the vendor, to determine are we going to go forward
9 or are we going to go back to our backup contingency plan
10 voting system. And we had to arrange for an optical scan
11 voting system to be used if necessary. And so we had to
12 monitor that week to week to make sure that we weren't going
13 too far to pull back and have a good election. You don't
14 want to be in that situation, but you certainly, if you're
15 going with an inexperienced vendor or an untested product,
16 you want to have enough time to be able to work those things
17 out, and then conduct trial elections, if possible, or low
18 voter turnout, smaller elections, prior to actually
19 implementing the system.

20 Our recommendations for the Voting Systems Panel
21 review of new systems and revisions to existing systems are
22 four. To set specific deadlines by which all design changes
23 and software enhancements must be certified and installed,
24 well in advance of the election, so that thorough testing
25 may be conducted and procedures defined. Recommend quality

1 control requirements for equipment manufacture and stringent
2 county acceptance testing, in order to prevent election day
3 equipment malfunction. Review all software change
4 procedures and software revisions, to ensure that unintended
5 problems are not created when system enhancements are rolled
6 out. Review procedures for potential points of failure or
7 post-election challenge, including all areas of the
8 election, the equipment acceptance testing, the pre-election
9 testing of the equipment and software, the pre-election
10 equipment delivery and security, opening of polls, voting
11 throughout the day, the polls closing, the tabulation, the
12 post-election equipment retrieval and storage.

13 I think we saw what kind of problems can be
14 created there in the September 10th primary in Miami-Dade
15 and Broward, and being prepared for hand and electronic
16 recounts, election contests, and the official canvass of the
17 vote.

18 I would be happy to answer any questions.

19 CHAIRPERSON JENNINGS: Mr. Mott-Smith?

20 PANEL MEMBER MOTT-SMITH: I asked Mr. Tesi a
21 couple of specific questions, and I'd like to ask you the
22 same ones. The recommendation that there be no changes to a
23 system and it essentially be locked down at some date prior
24 to an election, three parts to this, one, is that something
25 that's important to you, and, two, what would that date be,

1 and, three, how does this reconcile with your experience in
2 Snohomish where, according to what you just represented, you
3 had six weeks to install and train and set an entire system
4 in motion with no intervening runoff elections or anything
5 else?

6 MS. FERGUSON: I didn't hear one, John, I'm sorry.

7 PANEL MEMBER MOTT-SMITH: Do you support it?

8 MS. FERGUSON: I'm sorry?

9 PANEL MEMBER MOTT-SMITH: Do you support the --

10 MS. FERGUSON: Oh, absolutely.

11 PANEL MEMBER MOTT-SMITH: If this body was to look
12 at that as a potential condition of certification of voting
13 systems that there be a lock down requirement and no changes
14 made at some point, I can understand that in a certain sense
15 that makes sense, but in a certain sense there may be
16 extraordinary situations in which some changes are
17 necessary?

18 MS. FERGUSON: That's true. You may discover in
19 testing some problem with your tabulation system, that's
20 what you're testing for, and if you do, you have to be able
21 to correct it. You're not going to leave that there. If
22 there are last minute changes in the ballot or whatever, of
23 course these systems make that much easier. But I think
24 that it's critical that you do do that, so that what you
25 have on file here as the Secretary of State as to what

1 software is being used in that election is truly what
2 software is being used in that election and has been tested
3 and the procedures match it. And should there be an
4 election contest, you can actually bring that software into
5 court and prove that it was counting ballots correctly. The
6 closer you get to an election, of course, the more difficult
7 that's going to be if you have to make changes. But I think
8 the State, if possible, should be involved when that does
9 happen in overseeing the testing of that, whether it be at
10 the late hour or whatever, to help the county make sure that
11 everything's going to work properly.

12 With regard to Snohomish County, I'm going to
13 defer to Sheree Noell, if she wouldn't mind coming and
14 answering that question. I'm sure if we made the software
15 change that it was with the approval of the State, but I
16 don't know first hand.

17 MS. NOELL: Sheree Noell with Sequoia Voting
18 Systems. And with reference to Snohomish, we did do that
19 installation and implementation in approximately a seven-
20 week period, just shy of seven weeks. The change was a
21 programming change, a quick, not a major software change.
22 And it was due through testing that we saw a change that
23 needed to be made in there. It was therefore corrected. It
24 was very minor.

25 MS. FERGUSON: Because they were using the system

1 in a way that was new, right?

2 MS. NOELL: Well, yes, it was a new programming
3 situation for us in Washington state, yes.

4 PANEL MEMBER MOTT-SMITH: It does raise
5 interesting issues, because the procedures set up to require
6 that any modification to a system come here before it's
7 made, I think that's maybe something we have to look at.
8 Obviously, we have to extend the flexibility to deal with
9 emergency circumstances, but we also, I think, possibly need
10 to be more aware that the vendors are making changes at the
11 last minute. They are changing essentially what we have
12 certified for use in California and that's something I guess
13 we need to look at.

14 MS. NOELL: In Snohomish's case, we were working
15 very closely with the Secretary of State's office through
16 the entire implementation process, absolutely.

17 MS. FERGUSON: Thanks, Sheree.

18 PANEL MEMBER REYNOLDS: Actually, I was going to
19 ask whether our certification process doesn't address the
20 issue of last-minute changes to software, because I would
21 assume that since the software is required to be held in
22 escrow and checked following an election if there are any
23 challenges, what's held in escrow, it's been certified, is
24 checked against what was used in the election. And if
25 there's a discrepancy there, I would imagine it would open

1 up the election to challenges about the procedure. The
2 certification process essentially does lock down the
3 software. But if there are emergency situations that arise
4 and there's been times in the past where there have been
5 changes, or maybe there are things outside the control of
6 this body, it could be requested by a county that changes
7 could be made. But I did have a question about whether this
8 certification process doesn't lock down the software in any
9 event?

10 MS. FERGUSON: I would recommend that you would
11 disallow any changes that aren't germane to the accurate
12 tabulation of the election or recording of each voter's
13 intended vote after that point.

14 PANEL MEMBER MOTT-SMITH: And we do have what they
15 file with us seven days before the election has to be an
16 exact copy of what they're using to run the election. I
17 presume we're not talking about anything that happens in the
18 last seven days?

19 MS. FERGUSON: Well, were it to, I assume you
20 would want them to refile.

21 PANEL MEMBER MOTT-SMITH: To refile their
22 materials with us, yes.

23 My second question also that I asked Mr. Tesi, and
24 that is that we incorporate into our certification
25 procedures, along with technical testing, et cetera, the

1 testing, some sort of user testing for poll workers. I
2 didn't expand fully for Mr. Tesi, but maybe you can tell me
3 one of the things that we constantly struggle with is the
4 need to try and move things forward as expeditiously as
5 possible and the need to make sure that everything is done
6 right so that a county has accurate machines and so forth to
7 choose from. This would be another step along the way in
8 the testing process. It seems to me it would be one that's
9 valuable and that we need to do, but maybe you can comment
10 on that?

11 MS. FERGUSON: You're, I assume, talking about
12 prior to certifying the system --

13 PANEL MEMBER MOTT-SMITH: Right.

14 MS. FERGUSON: -- and actually having a test group
15 come in and use it and give you feedback. I think that's an
16 excellent idea. I think that's an area where none of the
17 vendors are yet where they need to be on the voter
18 interface. It's always a tough issue and the more you can
19 do to refine that and make it more clear, I think the
20 better.

21 PANEL MEMBER MOTT-SMITH: Also, you mentioned a
22 couple of things, one of which was we should insist upon
23 stringent county acceptance testing. We do require as a
24 condition of certification, acceptance testing, and that's
25 not defined. And I guess my question for you is would it be

1 useful for us, obviously working with other people, to
2 construct a model set of procedures or requirement, or is
3 the variability in terms of acceptance testing so great that
4 such a thing wouldn't be useful?

5 MS. FERGUSON: I think you could do that
6 reasonably along the lines of each different type of voting
7 system would have different acceptance testing, but for the
8 most part, running volume votes through those new machines
9 for several days, I would say, continuously, certainly many
10 hours, to find any weaknesses in any components. You know,
11 every time you change a manufacturing component or a source
12 of who's providing that component to you, you're subject to
13 influencing other things in the product. So it's important
14 that we test thoroughly at our end, but the more we start
15 putting out there very quickly with what's happening in the
16 nation, I think the more important it is that the counties
17 do that themselves and if the state defines those
18 procedures, it would be very helpful to the counties.

19 PANEL MEMBER MOTT-SMITH: Right. For example, we
20 could place a requirement that when we certify a system, for
21 example, if you look at the Ink A Vote system, there is an
22 item-by-item listing of what it is exactly that we are
23 certifying. We would expect, perhaps, that a county would
24 go down that list item by item and say that this is the
25 software version we have, this is the piece of equipment we

1 have, et cetera, and if it's not, then it's not certified?

2 MS. FERGUSON: Right. Agreed, yes.

3 PANEL MEMBER MOTT-SMITH: Thank you.

4 CHAIRPERSON JENNINGS: Any other questions from
5 the panel.

6 Mr. Trout.

7 PANEL MEMBER TROUT: I'll just follow up too,
8 because I have a big concern about the poll workers, because
9 I think, you know, they're probably some of the greatest
10 public servants we have, and I don't want them to be the
11 scapegoats when an election fails. You know, we've got
12 these people out here working 15 hours a day and for a
13 hundred bucks or less a lot of times, and I just think we
14 need to give them all the tools that we can to help them be
15 successful.

16 You know, we spend a lot of time focusing on
17 making sure that the voters can understand the system and be
18 able to use it and make modifications for them. So I want
19 to ask you how much training, how much time in training, do
20 you think a poll worker should have leading up to election
21 in order for them to be successful, and then as a follow up,
22 if there's any innovative ways we can move forward to help
23 to train them, because we've got new legislation to allow
24 State employees to be poll workers. A lot of counties are
25 using county employees. And so they get the day off to go

1 work at the polls, but they're probably not going to have a
2 lot of time because they're working people to sit through
3 eight or ten hours of training or anything. Are there any
4 ways that we can move forward with the vendors working with
5 the counties to help bring that about?

6 MS. FERGUSON: Yes, I think so. And you're right,
7 it's hard enough to recruit poll workers as it is and their
8 job is very difficult, aside from what equipment they're
9 using. Especially in California, it's so complicated. And
10 so if you tell poll workers in the Silicon Valley in Santa
11 Clara County where I was registrar that they're going to
12 have to attend a ten-hour training class, I just don't know
13 how many you're going to be able to recruit. So I think the
14 more that you can use your website for interactive training,
15 that you can provide them, for instance, with CDs with the
16 training on it, and provide things that they can use
17 themselves, in addition to the hands-on training with you,
18 something like that would be very helpful. Anything you can
19 do to put it in their hands or at their convenience, outside
20 of the regular training classes.

21 PANEL MEMBER TROUT: So do you agree that probably
22 eight to ten hours is what's necessary for -- I mean nobody
23 is ever going to fully trained, but what kind of timeframe
24 are we looking at, because I know a lot of counties, it's
25 like an hour, an hour and a half is about all you can keep

1 their attention?

2 MS. FERGUSON: Yeah.

3 PANEL MEMBER TROUT: All you can keep their
4 attention. I can't imagine, you know, sitting here at this
5 meeting for ten hours --

6 MS. FERGUSON: No.

7 PANEL MEMBER TROUT: -- and getting trained.

8 (Laughter.)

9 MS. FERGUSON: I can't imagine that anyone would
10 still be learning after --

11 PANEL MEMBER TROUT: Yes. What do they need to
12 know, and I realize there's different people there, but is
13 one or two hours acceptable for some people, or do we really
14 need to make a change and figure out maybe some statutory
15 changes or different ways of training that we can get these
16 people better trained to be able to let them have eight or
17 ten hours that they can do, you know, after they come home
18 from work interactively on-line or with some videos or
19 something like that? I mean, do you think we really need to
20 give them up to eight to ten hours instead of one to two, or
21 is it five or is it twenty?

22 MS. FERGUSON: You know, it's hard -- it would be
23 hard for me to say. I think that you should have various
24 levels of training, for instance. And I believe the State
25 association was looking at poll worker certification,

1 possibly. But you might look at something like that where
2 there is a certain amount of training required. You could
3 start the training on the procedural, the law-type issues,
4 earlier, and in whatever format. You know, it could be like
5 they do it at home and they take a test to show that they
6 know what they're supposed to know. But experienced poll
7 workers shouldn't have to go for that much training, and I
8 think most registrars are already varying that. But I can't
9 see a longer than a four-hour training class myself being
10 productive. So, yes, I think using every kind of tool you
11 can to allow them to follow up on the training they learned
12 in class and to test them would be good.

13 PANEL MEMBER TROUT: Yes, because they're willing
14 to come and they want to protect the system and serve as a
15 poll worker, it seems to me that they would be willing to
16 spend time on their own, if they had it, if it was available
17 for them, you know, after hours and something where it
18 didn't interfere with dinner time or work or playing with
19 the kids or whatever and were able to refresh the week
20 before the election or something.

21 MS. FERGUSON: I think so too, and they are the
22 heroes, and I think the more that we can recognize them as
23 such, that provides -- that goes a long way, because I
24 certainly don't think it's the money.

25 PANEL MEMBER TROUT: I agree. Thank you.

1 CHAIRPERSON JENNINGS: Mr. Gutierrez.

2 PANEL MEMBER GUTIERREZ: Thank you. Just one
3 follow up to what John had raised a little earlier. Your
4 recommendation that we limit the changes as we get closer to
5 the election, I think that has a lot of merit to it. And as
6 staff makes the recommendation to the panel they
7 historically used standard language in the certification
8 recommendation, and the language says that any modification
9 to the system must be approved by the Voting Systems Panel.
10 So I have to assume that everyone is following that, and I
11 have to assume that when a vendor sells a product to the
12 county, they're representing that product to be that which
13 is certified by the Secretary of State. Are you suggesting
14 that we limit ourselves in terms of what changes we approve,
15 or are you suggesting that changes are being made without
16 coming back to the panel?

17 MS. FERGUSON: No, I'm not suggesting that changes
18 are being made without coming back to the panel. But using
19 Miami-Dade as an example of what can happen when last minute
20 changes are made, no matter what necessitates them, you
21 know, I think it might be useful for the panel to have a
22 users group to really look at this issue, because it's going
23 to become more complex as we vendors meet the requirements
24 of all the states. Ha ha, right. But the more states we
25 try to comply with their certification requirements, changes

1 may be made to software that weren't necessary here. And, I
2 don't know, I just think it's a complex issue that you might
3 want to really look into how you can best do that. But in
4 the end, you're trying to protect the integrity of the
5 tabulation and reporting of voter intent on election day so
6 that you can uphold those election results. And I think
7 it's a complicated issue to deal with.

8 PANEL MEMBER GUTIERREZ: And the other thought
9 that comes to mind is, and I know that you have to present
10 your product to your customers, which is the county clerks,
11 and I assume you present a product that is certified at the
12 point when you present it, and the changes that are required
13 are changes which evolve from unique application. Is that
14 right, or it's not that you're presenting a product that
15 meets 75 percent of the standards?

16 MS. FERGUSON: Well, it could be the case that
17 when we originally present the product, it doesn't meet all
18 of the standards. As ES&S did their -- I'm certainly not
19 saying we don't do that. Because if there's changes that we
20 can reasonably make within the required timeframe and get
21 certified, both at the federal level and at the state level,
22 then, of course, we're going to proceed to do that.

23 PANEL MEMBER GUTIERREZ: That does put a lot of
24 strain on county officials and this body if the vendor can
25 be selling a product that is not certified, it doesn't meet

1 the certification, and then you've got timing problems and
2 you've got confusion and you've got plans that are awry?

3 MS. FERGUSON: Yes. I would say most changes
4 aren't going to be of the kind that would change your poll
5 worker procedures and voter procedures and your training,
6 for the most part. And they may be changes that wouldn't
7 even affect tabulation. So you would want to look at is it
8 a cosmetic change and if so, maybe you don't want to allow
9 it until after the election. What type of change is it and
10 how necessary is it. But limiting any changes after a
11 certain point, unless they are critical, is what I think
12 would be good. And then if you have to allow them, then you
13 need to be informed as to what they are, you need to be
14 shown what kind of testing has been done, and kind of
15 oversee that to protect the process, to the extent that you
16 can.

17 CHAIRPERSON JENNINGS: In the interest of time,
18 perhaps we ought to move on. Is there anyone here that has
19 questions that we need to have answered here? If not, thank
20 you very much, Ms. Ferguson. We appreciate again the chance
21 for some dialogue.

22 And do we have a representative, and this will be
23 our final testimony regarding the Florida situation, from
24 the Diebold Voting Systems Company?

25 MR. KNECHT: Thank you. My name is Steve Knecht.

1 Can everybody in the back hear me? It seems like --

2 CHAIRPERSON JENNINGS: It's on. You need to get
3 pretty close to it, Steve, if you can, because for whatever
4 reason it's not picking up.

5 MR. KNECHT: My name is Steven Knecht, Diebold
6 Election Systems.

7 When I was asked to come up and speak to the panel
8 yesterday, I was quite excited. I do have some opinions
9 about some of the questions being asked. So I will briefly
10 review our experiences in Maryland and Georgia and talk
11 about some specifics, so this hopefully won't take too long.

12 In Florida, there's an old story, which I won't
13 tell, but trust me the end of it is that some days when you
14 hear some bad news, later on it turns out to be good news.
15 We were very chagrined when we weren't certified in time in
16 Florida for touch screen, and then on September 10th we kind
17 of took a big sigh of relief that we didn't find ourselves
18 in the newspaper in Florida. We had 30 accounts in Florida
19 use our optical scan system, and as folks familiar with the
20 state, we have 11 counties using that same optical scan
21 system here in the state of California. And everything went
22 smoothly in Florida with all of our optical scan accounts,
23 as they did here in the primary in California. So optical
24 scan did not present any issues of training or design.

25 I'll address Maryland first. We had four

1 counties, Montgomery, Prince George's County, Allegany, and
2 Dorchester operate their first elections on September 10th
3 using the AccuVote touch screen system. We had excellent
4 results in Prince George's, Allegany, and Dorchester, and
5 received some press regarding opening of polls and the
6 timeframes in which we reported results in Montgomery
7 County.

8 It's interesting to sit in the back of the room
9 and have quite a bit of project management experience and
10 understand that there's a balance to all these questions
11 that are being asked. As a vendor, you want to make your
12 customer happy. At the same time, you're dealing with
13 personalities and you're dealing with traditions in counties
14 where you may make a recommendation, and those
15 recommendations may not be accepted. You may even stand up
16 and shout and say we really think you should listen to this
17 recommendation, and they may not be accepted.

18 Let me just say that Margaret Jergunson, the
19 Election Director in Montgomery County, we're all on the
20 same page now and she's an excellent administrator there.
21 In the first election, however, I think that some of the
22 history that they had caused them to believe that they would
23 take the road, transport folks who were doing the delivery
24 of the units to the polling places or IT personnel or the
25 janitors in the schools, and have them be trained and set up

1 the equipment, and then the poll workers would arrive on
2 election morning and everything would be all set up.

3 Suffice it to say, we suggested that they train
4 their poll workers anyway, in case the polls were not set
5 up. They arrived untrained and many of the custodians in
6 the schools did not take it upon themselves to set up the
7 equipment. So we had about 20 percent of the polling
8 locations in Montgomery County open up late. And clearly
9 that's a training issue. That has been resolved and judges
10 will be trained. In the other three counties where standard
11 operating procedures and training plans were followed, they
12 had no problems opening up the polls.

13 On the return side, in Montgomery County, the
14 press is used to getting their results off of Montgomery
15 County's website, which really has nothing to do with our
16 system. We feed them results and then they post it on the
17 their web -- their web server went down at 9:30, so the
18 press felt that the results were not coming in in a timely
19 fashion. And indeed, they were not from their vantage
20 point. So we received some bad press there.

21 Actually, the main problem there, I think whether
22 you're in San Mateo County or in any of our counties in
23 California, if you don't modem results in, which our system
24 has the capability of doing, and you drive the memory cards
25 in, which are just something about this size, along with a

1 report printout. Usually what happens is you send someone
2 right away at the close of the polls and get those cards
3 downtown and get those results reported. They chose to
4 print all of their reports and do all their paperwork and
5 close up the polls, and so they then also had a single
6 dropoff location. So the line of cars was several miles
7 down the road and they found that their results came in
8 late, in addition to their website going down.

9 So those were the problems that we had in
10 Montgomery County. Certainly training has to be part of
11 that category, and that has been addressed. We had less
12 than .5 percent of units replaced in the field, out of the
13 5,200 units that were used in Maryland on September 10th.
14 Upon inspection, 75 percent of those indeed had no problem.
15 Perhaps a paper tape was coming out and the initial zero
16 report printout was a little crooked, so the poll worker may
17 have adjusted the platen arm and not reset it or something.
18 So they thought that is didn't work, when, in fact, you just
19 needed to lower the platen arm, those kinds of training
20 issues. But, in effect, there were very, very few, about
21 half of one percent of units were replaced in the field.

22 As I said, Prince George's, Allegany, and
23 Dorchester County experienced very good elections and their
24 registrars were happy.

25 In Georgia, we had Hall and Marion Counties

1 actually run elections on August 20th, and their elections
2 went well. They're small counties, so they probably fall
3 into that small county, it's not a huge test for the state
4 of Georgia like we'll have -- we'll have 23,000 units in
5 operation in Georgia on November 5th. We'll have about
6 43,000 touch screen units being used throughout the United
7 States, including in seven counties here in California,
8 Plumas and Alameda being countywide.

9 The two counties that we, of course, received the
10 press in did not, in fact, run actual elections, but were
11 just putting units out in their precincts to do tests. I
12 think in our system, as in Sequoia's system, there's a
13 demonstration mode and there is an election mode, and when
14 you put it in election mode, it takes the voter's card after
15 they're done voting and it erases it so that they can't vote
16 again, and that's a good thing. When it's in demonstration
17 mode, they are able to use the same card and have voters
18 vote repeatedly. So we gave them two or three of these
19 cards to go out and do it in demonstration mode, and they
20 left one page off their instruction sheet for their
21 demonstrators, which apparently told them to put it in
22 demonstration mode, not election mode. So they put it in to
23 election mode in many cases, and, of course, then quickly
24 proceeded to erase their two cards and then the machine
25 didn't work for them. That made it into the newspapers as

1 11 percent failure in one county and 50 percent failure in
2 another county. In fact, the machines were all working and
3 operational and had the Xerox machine perhaps put that extra
4 page in there, maybe we would have reduced those numbers.
5 But nevertheless there's a training issue there as well.

6 In terms of our recommendations, Montgomery County
7 will be switching this, but they implemented not only the
8 new touch screen, but also provisional voting at the same
9 time in Maryland. So their focus really ended up being on
10 this new provisional concept that involved a lot of
11 complicated procedures for the poll workers that were new.
12 So they ran a four- to five-hour judges' training in
13 Montgomery County, and generally the AccuVote touch screen
14 setup, processing voters and closing was about one hour at
15 the very end of that. And my personal opinion is if you've
16 got classes longer than three hours you're in trouble. So
17 that AccuVote training is now going to be at the front end
18 of the class, not the back end of the class. The classes
19 will be shorter, the classes will be smaller. Those classes
20 entailed 70 to 80 people in a class.

21 The way we operate here in California is we try to
22 implement enough units in the training classes so that each
23 inspector gets hands-on training for the opening, processing
24 voters, and closing. So we have them pair off and work
25 together on one unit. So if there's 20 inspectors in a

1 class, which could represent 20 precincts, there may be 50
2 people in the class, but the inspectors are brought forward,
3 they pair off, they work together. And you would have ten
4 units there for them in that class, and that seems to work
5 very well. We haven't had any problems with that approach.
6 The hands-on training cannot be replaced, it has to occur.
7 Videos are great as a supplement, manuals, written
8 instructions are great as supplements, but the hands-on
9 training has to be the core bedrock of your class.

10 I'm going to stop there and that's pretty much our
11 experience. Nothing fatal and I'm glad that we're here
12 today with a chance for November 5th in Alameda and Plumas.

13 CHAIRPERSON JENNINGS: Thank you, Mr. Knecht.

14 Do we have any questions from the members of the
15 panel?

16 PANEL MEMBER TROUT: I think he already answered
17 mine.

18 MR. KNECHT: You won't get very many poll workers
19 if you offer an eight or ten-hour class.

20 PANEL MEMBER TROUT: But you think three hours is
21 enough?

22 MR. KNECHT: Three hours better be enough. If
23 it's more complicated than that, then you've got a problem.
24 You've got some other problem.

25 PANEL MEMBER TROUT: Right.

1 CHAIRPERSON JENNINGS: Mr. Mott-Smith.

2 PANEL MEMBER MOTT-SMITH: I wanted to ask you the
3 same questions I asked the others, but I also would like to
4 ask you, since you are in Alameda and Plumas, what is the
5 poll worker training regimen or program in Alameda and
6 Plumas?

7 MR. KNECHT: Well, there were two phases. The
8 first poll worker class in Alameda brought in all the
9 inspectors. We offered a training class that had no
10 pictures in any of the documentation. And I walked in and I
11 wondered what is going on. It turned out that what we're
12 doing is trying to ascertain who can read and who cannot.
13 And so there are some baseline aspects to recruiting poll
14 workers that perhaps we don't think about that are critical
15 to being able to implement a system. One is that they can
16 read the documentation, and that was given to all inspectors
17 in Alameda County and some inspectors were replaced and
18 others kept on.

19 The second layer was a two and a half hour class
20 for all inspectors that included the phase of set up,
21 processing voters, and closing. I would say that the
22 closing procedures are often the place where we need to
23 focus. I think we could give a two-hour class to 90 percent
24 of the judges that aren't really responsible and make sure
25 that the closing procedures perhaps have a supplemental.

1 I've often thought that that would be a benefit that the
2 people who are responsible for closing. The closing is a
3 very complicated process with a lot of things that they have
4 to do, a lot of processes and paperwork that they have to
5 fill out, and it would be good to perhaps segregate some of
6 their administrative functions from some of the operational
7 issues for the touch screen and getting the results downtown
8 in a timely fashion. So there might be a supplemental class
9 there.

10 PANEL MEMBER MOTT-SMITH: Okay. And then the
11 questions that I had asked the others, the lock down of the
12 system in terms of changes?

13 MR. KNECHT: I'm going to go against the trend, I
14 guess. I believe that it would be a fairly large mistake,
15 actually, for the Secretary of State's office to get
16 involved in what rev of software you're running and lock
17 that down at certain points due to the conversations we've
18 had, which should be -- I think Kathryn Ferguson is correct
19 that we should have those conversations in more depth and
20 make sure we understand what all the issues are. We've got
21 14 counties in the state, but we've got 40 states that we
22 support. Whereas you might have a cadre in two or three
23 locations around the country of 40 programmers addressing
24 all those thousand plus jurisdictions.

25 There has to be latitude. There has to be

1 latitude for a vendor to fix a problem, if they uncover it.
2 The testing panels that the programmers set up are
3 everything that they can think of, but they can't think of
4 everything, and sometimes they will get put into a location
5 where testing is done in a different fashion or somebody is
6 implementing the system in a way that you hadn't thought
7 about, and there has to be the flexibility to fix their
8 problem. It certainly doesn't have to be flexibility to go
9 implementing new functionality, but it has to be so that you
10 can fix a problem.

11 I think the source of much of what we're talking
12 about, frankly, is vendors promising things up front that
13 they really don't have today. But they're being pushed
14 along to respond, and the counties are saying, hey, we want
15 to push this edge of the envelope, and here it is in our RFP
16 and nobody does it, and all the vendors are trying to catch
17 up. I mean it's a two-way street. It's a two-edged sword.
18 But my caution is to implement a structure, a certification
19 structure that involves specific revs of software that are
20 locked down at a certain point that don't allow you then to
21 fix problems. But if I was going to look at this issue, I'd
22 look at it all the way back to the RFP process and say if
23 our county is asking for things that are outside of
24 certification, because it starts way back.

25 PANEL MEMBER MOTT-SMITH: And then the inclusion

1 in the certification process of some sort of focus group of
2 poll workers for system operation, et cetera?

3 MR. KNECHT: I think we tried to do that. In
4 other words, we tried to take people who haven't been to a
5 class and give them the instruction sheets and set them off.
6 It's something that we do out of self-defense right now. So
7 I don't think that would be an overly burdensome thing, as
8 long as the vendors had some input into how that read, I
9 guess.

10 PANEL MEMBER MOTT-SMITH: Okay. And then I have a
11 last question for you, and I didn't ask it of the other two,
12 so if either of them want to respond and the Chair felt that
13 was appropriate.

14 All of you have touched on the relationship with
15 the vendor to the county, and there's a lot of partnerships
16 here, this Voting Systems Panel, the county, the vendor, et
17 cetera. But there have been a lot of statements about what
18 is and what is not adequate levels of vendor support. Part
19 of what we're experiencing on our end is an observation of a
20 migration of responsibility from the county election
21 official to a reliance upon a vendor to provide a system,
22 operate that system, tell them how it works, fix it, et
23 cetera. And I'm asking in a very general sense for your
24 speculation on where is the appropriate line between the
25 vendor's responsibility to operate the system, and the

1 county's responsibility ultimately to answer for the
2 accuracy of the election in a way that is meaningful and
3 relevant?

4 MR. KNECHT: One of the things that we felt made
5 the Hall and Marion County elections a success in Georgia
6 was the fact that they ran their own election. They did
7 their own poll work or training, they ran the computers on
8 election night. We trained them, but they did it
9 themselves. Since Diebold bought Global last year, Global
10 Election Systems, and Global was founded on a premise that
11 we would provide tools to customers to allow them to
12 implement their own processes and be less vendor dependant.

13 So that has been one of our primary touchstones as
14 a vendor, and the tools that we provide are geared toward
15 allowing the customers to do their own testing, their own
16 implementation. However, when we're involved in the type of
17 new technology where the vendor is still learning, the
18 landscape is changing, the software is being developed, ADA
19 compliance is still being worked out, and you've got a
20 changing landscape like it is today, I believe the vendor
21 has to be involved, probably my personal feeling is for the
22 first two elections.

23 In other words, we suggest to the counties that we
24 have implemented here in California that the first election
25 they do -- we train the trainer for everything except the

1 computer console on election night and the ballot layout,
2 and then after they've got an election under their belt,
3 then they learn about the ballot layout process and the
4 computer console on election night. Sometimes you have to
5 have some experience before some of this training really
6 takes hold. So I think ultimately the county needs to be
7 responsible and is responsible, but I think it's at least a
8 two-election process before that can occur. I don't know if
9 that answers your question, John.

10 CHAIRPERSON JENNINGS: Mr. Tesi, would you want to
11 add anything to his remarks?

12 MR. TESI: No. I think they were good.

13 CHAIRPERSON JENNINGS: And Ms. Ferguson? Can you
14 just do it from there?

15 MS. FERGUSON: Yes, I can.

16 CHAIRPERSON JENNINGS: Thank you.

17 MS. FERGUSON: I think you're going to have
18 various levels of support that the counties are going to
19 need, depending on their size, their level of staffing and
20 sophistication and IT support from the county and resources.
21 So that's going to vary depending on what that county needs.
22 The critical element, I think, is that the vendor manage the
23 risks for their customer counties. And that means taking
24 all the lessons learned from all the jurisdictions and
25 making sure that they inform that county of what those risks

1 are and that they offer solutions to the county. Yes, they
2 can't require the county to take those solutions, but at
3 least you've made them aware and you've given them a model
4 by which they can be successful, if they choose to. That's
5 not to say counties won't have better ideas than the vendor.
6 Snohomish County, Washington, they wanted to be very
7 independent of us, and they managed a lot of that election
8 themselves very successfully and they did some things in
9 different ways. But as a strategic business partner of
10 them, you know, we will ride in there with them, analyzing
11 the impact of that and try to make sure that everything is
12 going to go okay. So ultimately, yes, it is the county's
13 responsibility.

14 CHAIRPERSON JENNINGS: You make a good point,
15 thank you.

16 Do we have any other questions from members of the
17 panel?

18 MR. KNECHT: Thank you.

19 CHAIRPERSON JENNINGS: If not, thank you, Mr.
20 Knecht, for your input.

21 That concludes the three vendors who did submit a
22 written report to us, a copy of which has been made
23 available to everyone here in the audience. And we
24 appreciate again the opportunity to have some dialogue with
25 you.

1 I want to now open this for public discussion, if
2 I can, and a couple of things that I would like to have, if
3 I could, is, one, I understand that Ernie Hawkins was asked
4 by the president to come back to Washington, D.C. and be a
5 part of the signing ceremony of the Election Reform Act, as
6 well as Connie McCormick from Los Angeles. So I wonder if
7 either of you have, one, if you want to give us a little
8 recount of the experience, because this is a very important
9 piece of legislation that is now law, and it could mean and
10 will mean a great deal to the election community in
11 California in the end. So would either of you like
12 to just speak from your seat or --

13 MS. MCCORMICK: Chairman Jennings, could I ask
14 first that I address the panel about Florida, since I was
15 there, and I wouldn't ask for more than a couple of minutes.

16 CHAIRPERSON JENNINGS: Well, sure. Come on up,
17 Connie, no problem. We have to give Ernie a chance to think
18 about what he's going to say.

19 MS. MCCORMICK: And I won't go through my whole
20 report, but I do have a six-page report if you all would
21 like a copy of it.

22 Thank you for letting me take just a few minutes
23 to, I think, clarify from the elections administrator's
24 perspective, since you've heard from the vendor's
25 perspective. As a colleague of the elections officials in

1 Florida, I would like to make a few comments, and I would
2 also like to make a few comments about what was put in the
3 Miami-Dade County's Inspector General Impartial Report. I
4 think that you really need to have more than the vendors
5 tell you what happened in Florida. So on that, I would like
6 to just submit my report and mention a few points, one being
7 that in the 31 page -- and mine is only six, so if you get a
8 chance to read it.

9 In the 31-page Miami-Dade Inspector General
10 report, that report concluded that the causes of election
11 failure fell into three categories, and I don't think you
12 heard really all three. Planning and organization on the
13 part of the election administrator, equipment-related
14 deficiencies, and training.

15 I would also like to mention that I think it's
16 been very unfair that the comparisons of the large counties,
17 Miami-Dade and Broward, and what they experienced to the
18 smaller counties in Florida is like comparing apples to
19 oranges. There is a total difference in being able to
20 conduct an election in a small election jurisdiction that
21 has an english ballot and a few ballot styles.

22 In the five days I spent in Florida between
23 September 7th and September 11th, I guess four days that I
24 was there, I went to four counties, one of which was a very
25 small county, Indian River County, one of the Sequoia

1 accounts, and putting in all they're converting from punch
2 card to a new DRE. So that was of interest to me, because
3 that's what we're going to be doing. And I wanted to do
4 lessons learned, which this document focuses on lessons
5 learned, which is what I think all of you want. That's all
6 of our goal, we want to be successful.

7 All of us want to manage our risks, that's our
8 job, and you've done a great job in trying to help us do
9 that. That's your role. So to do that, I went to small
10 counties and large counties, all of which have been punch
11 card, all of which had switched. And there really isn't a
12 comparison, because when you can take Sarasota and Pasco
13 Counties, and I didn't go to either of those, but they were
14 small counties that said they had no problems using the same
15 equipment that Miami-Dade and Broward did. They admitted to
16 between 8 and 12 hours of poll worker training. They also
17 were able to do their poll worker training within two weeks
18 of the election, because they're small enough.

19 Have you ever been to a Microsoft class and, you
20 know, you figure it out, it's easy, and then a week or two
21 later you're trying to create that list and you're kind of
22 going, now, wait a minute, it was really easy in class.
23 Well, when you're a large jurisdiction and you have to start
24 training, we start five and six weeks out, up to 40 percent
25 of our poll workers quit from the time we start training

1 until we end training. So now we have another dynamic that
2 has entered into the picture. Yes, you may have someone
3 trained, and then they got scared and quit.

4 But when you can do it all within two weeks, your
5 attention level is obviously going to be higher. Our
6 training classes are 90 minutes and it's hard to get people
7 there. We need to train 23,000 poll workers, we usually get
8 18,000 of them to class. There's no physical dynamic that
9 we're going to be able to put people through eight hours of
10 training. Steve, you're absolutely right, we have to have a
11 system that works easier. We can't have systems that
12 require that level of training. Yes, I think all of us
13 could be successful if we all have Ph.D.s in specifically
14 what we were doing, but poll workers don't and we don't in
15 our jobs, and I really think that's an important dimension
16 that we have to be thinking about, how do we make it easier.

17 So when the vendors say that if they had a
18 problem, this is the lessons learned, that a demo unit was
19 out there that was 20 percent used wrong or whatever, it
20 should have been set in demo mode. I mean as the next
21 election administrator, I know their perspective is the
22 person should have known how to make it a demo mode. My
23 perspective is why not hard code it in as a demo mode so
24 that person doesn't have to deal with that.

25 So I think that's the partnership we're all

1 seeking is that the election administrator and the vendor
2 work together to find what is the easiest way so that
3 there's the least amount of potential error. If you don't
4 have the possibility, you don't have to worry about it. So
5 I think that's one of the things we really need to be
6 focusing on.

7 Another thing I'd like in terms of the panel and
8 because you've asked, John. You were asking about timeline
9 issues, you know, installing systems quickly, you were
10 asking about languages. You asked a question about the
11 languages. I would like to ask the panel when they're
12 certifying languages, because now so many counties in
13 California have to do multiple language, not just Los
14 Angeles any more, there's quite a few with four or five
15 languages, that the requirement extend beyond seeing it on
16 the system. That if a vendor says they can do it, make a
17 requirement that the ballot styles.

18 What happened in Miami, they 142 ballot styles. I
19 have 818 on November 5th. They had three languages, I have
20 seven. When the software changed from the simple to the
21 complex, they couldn't load it on all of the equipment and
22 all the languages without a six-minute start up. Now, I'm
23 sure, that's been resolved, but we should be able to see and
24 all of you should be able to see when you're certifying this
25 that they have loaded on the Orange County ballot, that you

1 can see any one of those, and that it's instantaneous. It
2 has to be instantaneous.

3 We did our testing for our early voting with seven
4 languages and 818 ballot styles, all of our early voting
5 sites have all of that. And yes, of course, we have accent
6 marks that were off in the Japanese and the Chinese, and
7 it's a 15-minute fix with our system. I need to have proof
8 from anybody that they could do a 15-minute fix when you do
9 an acceptance test and that accent mark is too big or too
10 small or not there. These are some of the things I really
11 think the panel needs to be -- I don't think the panel, and
12 I don't chastise you for it, I'm just saying I think if
13 you're looking at additional ways to prevent failure and to
14 assure counties that they could have the success that we
15 need and you need for us all to look good in this process,
16 that you need to hold to a standard that is very, very high
17 and showing all of those requirements.

18 I'd also like just to close, I could go on and on
19 and you got many other people to hear from and you want to
20 hear some fun stuff too, that when I'm coming in and asking
21 for an Ink A Vote certification, it's not because I want to.
22 I want to get to new modern equipment, and all of us want
23 that for the state of California. We want to be proud that
24 we're all on good equipment and that we can serve every
25 voter, whether they're blind or any kind of disability. But

1 we want to do it in a way that we know it's going to work
2 and it's going to be successful. And there is still a lot
3 of risks and I feel like I would never go to this or any
4 other new system without feeling it's a hundred percent in a
5 laboratory setting. It needs to be.

6 Now there will be some errors, because there's
7 people involved. But I'm not a hundred percent sure that
8 that's the case with electronic voting right now. I'd like
9 to believe that, I want to believe it, and I could stand for
10 a certain level of error, but I'm concerned having read the
11 articles that came out last Thursday and Friday in the
12 Dallas newspaper, and quotes directly from the elections
13 administrator, who, I used to be the elections administrator
14 in Dallas, and I know the person who is now the elections
15 administrator, he used to be my assistant, specifically
16 stating that in his early voting environment on touch
17 screens, he had 18 out of 400 units, four percent, that were
18 admittedly miscalibrated. When you voted for one candidate,
19 it showed up for another.

20 Now, granted, hopefully you wouldn't hit the case
21 ballot button until you realized that and realized it was
22 out of calibration and went and told your poll worker. But
23 that unfortunately is not what happened, because there's
24 people who mentioned that later. But that's a high percent
25 of calibration issues, and I want that addressed too by this

1 panel as we go forward in the acceptance testing, not just
2 one-time testing, but drive it around, drop it off a truck
3 15 or 20 times, or figure out how you recalibrate it.

4 Apparently, according to the news reports on it,
5 the recalibrations are pretty simple and easy, and now every
6 day in the early voting in Dallas, they're setting it up and
7 making sure it's calibrated every day. But they have been
8 using it for four years and there's a quote that said, well,
9 for four years we've had some of these calibration issues,
10 we just fix them when they come to light. That scares me.
11 I mean I don't want to think about people -- and there were
12 allegations and they were not proved, I don't have any
13 evidence, but we heard them while we were in Miami and
14 Broward that people tried to vote for one candidate and it
15 went for another. Who knows what that meant. And I don't
16 know what the level testing was required, but this is an
17 admission and now a lawsuit that's going on in Dallas about,
18 you know, 18 machines were, yes, when we checked them, if
19 you voted for one person -- or you tried to touch for one
20 person, it lit up for another. Again, the voting is the
21 cast ballot button. I think that's a concern that should be
22 evaluated

23 And I won't go on and on because, you know, I
24 could. You know I can, and would if you gave me the time.

25 (Laughter.)

1 CHAIRPERSON JENNINGS: We have a question from Mr.
2 Mott-Smith.

3 PANEL MEMBER MOTT-SMITH: It's not so much a
4 question, it's a partial response to the two issues you
5 raised. One is the languages. We struggled with that here
6 because we don't have 58 counties with language
7 requirements. So when we look at a system with four
8 languages, it's entirely conceivable that a vendor could
9 come in without any language capability beyond english and
10 market that simply to counties that have no federal language
11 requirement. But I think what you're suggesting is that in
12 our testing process, we could say whether it has this
13 capability, even though in the end that's going to be
14 something you're going to have to deal with contractually.

15 MS. MCCORMICK: I would even suggest that maybe
16 you make that suggestion to the counties when you're looking
17 at, yes, we've seen it, this is what we've seen when we
18 certified it. Just let us know what you're seeing, which
19 doesn't mean we've seen everything that you need to see. So
20 we would suggest that you make sure that you do see all of
21 your ballot styles from a previous election. You can say we
22 didn't see that, which is fine, but the suggestion that
23 anybody looking does see that, I think would go a long way
24 toward helping people recognize that need.

25 PANEL MEMBER MOTT-SMITH: And I think in some way,

1 shape or form, us looking at some kind of acceptance
2 testing, aside from just the simple statement that we've
3 made that there has to be an acceptance test, that there
4 should be some more completeness to that report.

5 MS. MCCORMICK: What it entails, yes. That would
6 be very helpful.

7 PANEL MEMBER MOTT-SMITH: The second thing that we
8 understand that we test in a laboratory environment and we
9 could incorporate some focus groups or public participation.
10 We do that to some extent, we just go to groups and others.
11 But we've tried to address the issue you raised by requiring
12 in all the certifications that we have issued in the last I
13 don't know exactly how long, the vendor and the county to
14 report to us any problem, whether it's miscalibration or the
15 precinct's not opening or whatever, and we will be more
16 serious about following up on that to try and bring back to
17 this body if there is an issue with a system, how to fix
18 that. I don't know how to do that --

19 MS. MCCORMICK: I think we're all in a learning
20 curve. All of you are in the learning curve and all of us
21 are in a learning curve. If you think about it, none of
22 these systems have been certified by the Secretary of State
23 since 1999. That's not much time. And they have all
24 progressed dramatically, and I think the improvements are
25 wonderful. So I think we can do nothing but get better and

1 I think that's what we all want.

2 But I think we can learn how to do that from each
3 other and certainly next month with the new law and your
4 panel that you will help us get there. But it's invaluable
5 going out and seeing. And we will have people from LA
6 County and Houston at the Hart Graphics Installation in
7 Houston. We will have people in Georgia, we had people in
8 Florida. We feel like there's nothing like seeing it
9 yourself. I mean you can read every report in the world,
10 but when you're there and you watch a poll worker, and I
11 watched a poll worker close a poll who just had a paradigm
12 shift. I mean she was a wonderful poll worker, she knew how
13 to set up her poll and how to sign everybody in, she had
14 been doing it for years. But at the end of the night, and I
15 think Steve Knecht's comments about the end of the night
16 were right on, she really didn't know what the ballot was.

17 Back when you have a physical ballot, you put it
18 in a box and you know that's important and take it
19 somewhere. But is it the flashcard, is it the printout, is
20 it the machine, is it the hard drive. For the 75-year-old
21 average poll worker, that was -- I saw poll workers just
22 sort of lose it, they just didn't know what it was, and some
23 of them just couldn't deal with it, because they didn't know
24 what the ballot was, and what is the ballot and where is it.
25 And again that's a paradigm shift. We can get past it and

1 we can teach them, but we saw them scratching their heads.

2 CHAIRPERSON JENNINGS: Mr. Gutierrez, do you have
3 a question?

4 PANEL MEMBER GUTIERREZ: Thank you. Actually, I
5 have a question of John that gets --

6 MS. MCCORMICK: Thank you, I'm going to go back
7 and let --

8 PANEL MEMBER GUTIERREZ: John, what is it we're
9 doing in terms of the accumulating problem that we identify
10 nationwide and how we're going to work with that
11 information?

12 PANEL MOTT-SMITH: We are establishing a network
13 of people similar to Dawn who are instrumental in
14 certification of voting systems in every state, and
15 essentially using that network to bring back to us any
16 allegations, sort of like we had the newspaper reports on
17 county elections officials, any kind of information that we
18 get that a system had a problem, and then use that as a
19 basis to follow up on, in terms of what systems we have here
20 in California.

21 And then secondly, we have within the conditions
22 of certification, or excuse me, within the procedures
23 adopted with the certification, we have recently made
24 requirements that the counties report to us on overvotes,
25 undervotes, error rates, problems, et cetera, essentially on

1 an annual basis. And the very focused intent of that is to
2 generate data to come back and make meaningful the
3 requirement that this body have a periodic review of voting
4 systems and give us some data on which to know where we're
5 going forward, as opposed to sideways or backwards.

6 CHAIRPERSON JENNINGS: And thank you, Connie, for
7 your remarks. I appreciate it very much.

8 Ms. Ferguson.

9 MS. FERGUSON: Could I address an issue that
10 Connie raised quickly?

11 CHAIRPERSON JENNINGS: Certainly.

12 MS. FERGUSON: It's the calibration issue. I
13 think it's important to address that because the calibration
14 issue can be addressed as we did in the past when we had
15 periodic checks of the Votamatics to make sure that ballots
16 weren't stuck in there, that everything was working properly
17 throughout the day.

18 Calibration can be checked by the poll workers at
19 established times throughout the day. When the voter makes
20 their selection on any of these systems, calibration is an
21 issue, it's part of this technology. And the fact is that
22 it shows them immediately what choice was registered, and
23 they have the opportunity to correct it at that time, to
24 call the poll worker over to get in calibrated. But if they
25 fail to notice that, they're not watching, that the vote

1 intended to be recorded, when they get to the end of the
2 ballot before they can record it, I think all three systems
3 that were represented here today present them with a review
4 screen that shows them exactly what was recorded in each
5 race. And, again, if they take the time to check that, they
6 would see what the choice was. And I think it would be
7 unfortunate if people didn't take advantage of this
8 technology with all that it has to offer, simply because of
9 that.

10 And the other clarification I wanted to make is
11 that, yes, Indian River County is a very small county in
12 Florida, but Sequoia also had Palm Beach County which was
13 the third-largest county, second only to Miami-Dade and
14 Broward, where we had a very successful election and three
15 languages. Thank you.

16 CHAIRPERSON JENNINGS: Thank you.

17 Quickly, Ernie, can you tell us what it was like
18 to meet the President.

19 MR. HAWKINS: Oh, it was exciting.

20 (Laughter.)

21 MR. HAWKINS: Yeah, we thought we were going to
22 get to go to the White House. Actually, we ended up in the
23 Executive Office Building next door.

24 CHAIRPERSON JENNINGS: Oh, you went into the ugly
25 EOB?

1 MR. HAWKINS: The room was actually quite pretty
2 and it was very exciting to be there.

3 CHAIRPERSON JENNINGS: I can imagine, it was just
4 yesterday.

5 MR. HAWKINS: It was just yesterday. And Connie
6 and I were there. There were two other local election
7 officials there, Kathy Pearsall-Stipek, who is the Director
8 of Elections up in Pierce County, and somebody from the
9 state of Maryland who I didn't know whose husband was also a
10 Congressman and she was part of the ceremony.

11 CHAIRPERSON JENNINGS: So there was only four of
12 you? That's quite an honor and we're so happy that both of
13 you were invited.

14 (Applause.)

15 MR. HAWKINS: Thank you. During the last year, I
16 think we were fortunate that there were three of us in
17 California that had a lot of input. I know I was involved
18 with NAS and NAS, and the National Association for State
19 Legislatures, the Carter-Ford Commission, MIT, Cal-Tech,
20 Harvard, the National Association of Counties, the National
21 Association of County Clerks, Records, and Election
22 Officials. All had reform commissions or taskforces, and we
23 were well represented on all of those. And I think a lot of
24 what we'll see in the implementation reflects a lot of what
25 we do already in California. And we were also involved with

1 the staff as they were writing the legislation, and Connie,
2 Brad and I were all on that taskforce, and I think they
3 really listened to what we had to say. I think the big
4 concern that we have now, however, is that we have a new
5 federal mandate without any funding, and while there's an
6 authorization for funding in the bill, there's no
7 appropriation.

8 CHAIRPERSON JENNINGS: That's correct. But
9 there's also some deadlines that are very short too.

10 MR. HAWKINS: Absolutely.

11 CHAIRPERSON JENNINGS: Thank you, Ernie, I
12 appreciate that. And Connie too, thank you for representing
13 California as I know you did so ably in Washington and in
14 front of Mr. Bush.

15 Do we have any other comments from the Public at
16 this time?

17 Mr. Galvin.

18 MR. GALVIN: Thank you, very much, Mr. Chairman.
19 My name is Jeff Galvin and I'm here to speak for Avante
20 International Technology. And with me is John Burn, also
21 from Avante.

22 We briefly wanted to address the panel this
23 morning to point out that Avante is requesting full
24 certification of it's voting system. The public hearing on
25 Avante System occurred just a few weeks ago on October 11th.

1 So in our view, Elections Code Section 19204 has been met
2 and that there's been a public hearing on the system. And
3 our view is that the approval of the system can and should
4 be considered today under Agenda Item Number 1 for old
5 business.

6 Sacramento County representatives are here and can
7 give some initial comments on how the early voting, which
8 was approved on October 11th, went in Sacramento County.
9 That early voting period was concluded last week.

10 So to summarize, what Avante would request is full
11 certification today. But if the panel chooses not to take
12 up certification today, then Avante requests a hearing on
13 full certification at the panel's earliest opportunity. And
14 I would point out in that regard that on October 17th, I
15 sent a letter to the Chairman requesting full certification
16 on behalf of Avante.

17 What Avante would like simply is to have an
18 opportunity to present its product to California counties,
19 together with the other products that are already are on the
20 market. We think we have a good reliable product, and we'd
21 like to get that product out there as soon as possible. So
22 we would request the earliest opportunity that the panel
23 would hear us on full certification.

24 CHAIRPERSON JENNINGS: Thank you, Mr. Galvin. I'm
25 going to refer the first part of your request to Bill Wood,

1 who is the General Counsel for the Secretary of State's
2 agency, and we gave great consideration to your letter and
3 he does have a response.

4 GENERAL COUNSEL WOOD: Thank you, Mr. Jennings.

5 Mr. Galvin, as Mr. Jennings has indicated, we have
6 been in contact with members of the staff of Avante and your
7 office as well, and as Mr. Jennings indicated, we had a
8 lengthy legal discussion within the Secretary of State's
9 office regarding the request you have made and that you have
10 just articulated. And as we have indicated to you and we
11 will now indicate publicly as well, it is the Secretary of
12 State's view that Section 19204 of the Elections Code sets
13 out a fairly rigid and fairly unambiguous requirement of a
14 30-day notice period for the public hearings that the
15 Secretary of State must conduct in order to have a
16 certification process. This is our interpretation of that
17 code section and that is how the Voting System Panel, which
18 advises the Secretary, has conducted its business up until
19 this time. So it would be both, we believe, statutorily
20 impermissible, as well as inadvisable from a past practice
21 position to accept the interpretation you have of Section
22 19204. It is our view that Avante, in order to have a full
23 certification question come before the Voting System Panel,
24 would need to make a 30-day request for a hearing that would
25 be in compliance with the Elections Code.

1 CHAIRPERSON JENNINGS: Thank you, Mr. Wood.

2 And Mr. Galvin, we had a discussion before the
3 meeting. Would you like to respond to that? I think you
4 have another request to make.

5 MR. GALVIN: Well, I think that our request would
6 be that my letter of October 17th be deemed to start the 30-
7 day notice period. Our interpretation of Section 19204 is
8 that that section of the Elections Code was written simply
9 to give the public a fair opportunity to comment on any
10 voting system. Our view is that the public had full
11 opportunity to comment on October 11th, and that that public
12 comment period has been satisfied. To the extent that
13 Bagley-Keene requires a ten-day notice for a public meeting,
14 certainly with my letter going out October 17th, we should
15 be ready soon to schedule a meeting, and that should be able
16 to be done in our view on fairly short order.

17 So our view is that a public hearing means an
18 opportunity for comment and that opportunity has been given.

19 CHAIRPERSON JENNINGS: Now, Mr. Galvin, I think
20 what I would like to offer to you as Chair is that we would
21 give that request consideration, that we would take a look
22 at your letter of October 17th, and to make a ruling on
23 that, and we will do that this afternoon. So that if you
24 need to -- are you prepared to submit another request for
25 certification this afternoon, if we do not approve the 17th

1 date?

2 MR. GALVIN: We can. We submitted a letter
3 yesterday as well.

4 CHAIRPERSON JENNINGS: Yes. We will look at both
5 those letters, and if either one of them is considered
6 applicable and we can go ahead and agendize a meeting for
7 the 17th of next month, or the 29th of November, although I
8 think that falls in the Thanksgiving period, we will do so
9 and we'll inform you. But if we do not, are you prepared to
10 bring a letter to us so that we can as quickly as possible
11 schedule this meeting?

12 MR. GALVIN: I am. It would be very helpful to us
13 to the extent that the panel believes there are additional
14 legal requirements that those be presented to us so we know
15 what we need to do.

16 CHAIRPERSON JENNINGS: But we asked in the
17 meeting, as you remember, part of that was a report from
18 Sacramento County. We would prefer that in writing, rather
19 than verbal. And we also feel that the process is not
20 complete until the election of November 5 and the results
21 that were attained on those machines in the early voting
22 period are merged into the vote totals. So that process
23 really doesn't happen until the polls close on November 5th
24 and you have a complete report saying that there were no
25 problems completely through the closing of the polls on

1 election day.

2 MR. GALVIN: Well, we would hope to be ready to do
3 that by mid-November, and certainly well before
4 Thanksgiving, so that we can proceed.

5 CHAIRPERSON JENNINGS: And Mr. Hawkins, would you
6 be prepared to have a written report for us soon after the
7 elections?

8 MR. HAWKINS: To the extent that the early voting
9 process and the vote tabulation process went smoothly, yes.

10 CHAIRPERSON JENNINGS: Fine. Thank you. Thank
11 you, Mr. Galvin.

12 MR. GALVIN: Thank you.

13 CHAIRPERSON JENNINGS: Do we have any other public
14 comment at this time? If not, although we're a little late,
15 we're going to adjourn this meeting and we'll keep all of
16 you informed.

17 I want to thank everyone who has attended today.
18 There's a great deal of interest, as you know, in voting
19 systems and the technological changes that are occurring in
20 this industry. It's a real challenge, not only for this
21 panel, but for the vendor community, for the County
22 Registrar of Voters and the State of California. So we
23 appreciate your attendance and your interest today, and I
24 especially want to thank the representatives of the three
25 companies who provided us with testimony.

1 Okay. This meeting is adjourned, thank you.

2 (Thereupon the meeting of the

3 Voting Systems Panel was

4 adjourned at 12:45 p.m. on

5 October 30, 2002.)

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1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do
3 hereby certify that I am a disinterested person herein; that
4 I reported the foregoing Voting Systems Panel proceedings in
5 shorthand writing; that I thereafter caused my shorthand
6 writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or
8 attorney for any of the parties to said Voting Systems Panel
9 proceedings, or in any way interested in the outcome of said
10 Voting Systems Panel proceedings.

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 23rd day of December 2002.

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18 Michael J. Mac Iver
19 Shorthand Reporter
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